

**Metropolitan Washington Airports Authority**  
**PROCUREMENT AND CONTRACTS DEPT.**  
**SOLICITATION OFFER AND AWARD**

Metropolitan Washington Airports Authority Procurement and Contracts Dept., MA-29 2733 Crystal Drive Arlington, VA 22202		<b>1. FOR INFORMATION CALL</b> NAME: <b>Victoria Mayle</b> TELEPHONE NUMBER: <i>(No Collect Calls)</i> <b>703-417-0610</b>	
<b>2. SOLICITATION NUMBER</b>	<b>3. TYPE OF SOLICITATION</b>	<b>4. DATE ISSUED</b>	
<b>IFB-20-23004a</b>	INVITATION FOR BIDS (IFB)	<b>August 19, 2020</b>	
<b>SOLICITATION</b>			
<b>5. DESCRIPTION OF SUPPLIES, SERVICES, CONSTRUCTION</b>			
The Contractor shall furnish assorted electrical supplies on an as need basis for warehouse stock at Washington Dulles International Airport (IAD) and Ronald Reagan Washington National Airport (DCA).  The Period of Performance will be one year from award with four, one-year options to be executed at the discretion of the Airports Authority.  All questions concerning this solicitation must be submitted by 3:00 PM September 1, 2020 via the Airports Authority's website at: <a href="http://www.mwaa.com/business/current-contracting-opportunities">http://www.mwaa.com/business/current-contracting-opportunities</a> <b>Note:</b> This solicitation has a 0% LDBE participation requirement.			
<b>6. BOND REQUIREMENTS</b>			
BID BOND: None	PAYMENT BOND: None	PERFORMANCE BOND: None	
<b>7. PRE-BID CONFERENCE</b>			
None			
<b>8. DEADLINE FOR OFFER SUBMISSION</b>			
Bids to perform the work or to furnish the supplies or services in the Price Schedule shall be submitted through the solicitation's submission portal by <b>2:00 P.M.</b> local time, <b>September 17, 2020</b> . Bids will be publicly opened 30 minutes thereafter. See Section V – Solicitation Provisions for additional information.			
<b>OFFER (Must be fully completed by offeror)</b>			
<b>9. NAME AND ADDRESS OF OFFEROR (Include Zip Code)</b>		<b>11. REMITTANCE ADDRESS (If different than Item9)</b>	
		<b>12A. E-MAIL ADDRESS</b>	
<b>10A. TELEPHONE NUMBER</b>	<b>10B. FAX NUMBER</b>	<b>12B. COMPANY INTERNET WEBSITE</b>	
<b>13. ACKNOWLEDGMENT OF AMENDMENTS (This offeror acknowledges receipt of amendments to this solicitation - give number and date of each)</b>		<b>14A. NAME &amp; TITLE OF PERSON AUTHORIZED TO SIGN OFFER</b>	
<b>AMENDMENT NO.</b>			
<b>DATE</b>		<b>14B. SIGNATURE</b>	<b>14C. DATE</b>
<b>AWARD (To be completed by MWAA)</b>			
<b>15. ACCEPTED AS TO ITEMS NUMBERED</b>		<b>20A. NAME OF CONTRACTING OFFICER</b>	
<b>16. CONTRACT NUMBER</b>	<b>17. AMOUNT</b>	<b>20B. SIGNATURE OF CONTRACTING OFFICER</b>	
<b>18. DATE OF AWARD</b>	<b>19. CONTRACT EFFECTIVE DATE</b>		

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**SECTION III - PRICE SCHEDULE**

The Price Schedule for this solicitation is in Microsoft Excel format and downloadable at:

**<http://www.mwaa.com/business/current-contracting-opportunities>**

This Price Schedule must be submitted electronically in its original Microsoft Excel Format. The structure of the schedule is protected and shall not be modified in any way. Modified schedules may be deemed non-conforming to the solicitation.

**SECTION IV - REPRESENTATIONS AND CERTIFICATIONS**

**01 PARENT COMPANY AND IDENTIFYING DATA**

A. A "parent" company, for the purpose of this provision, is one that owns or controls the activities and basic business policies of the offeror. To own the offeror's company means that the parent company must own at least 51% of the voting rights in that company. A company may control an offeror as a parent company even though not meeting the requirement for such ownership if the parent company is able to formulate, determine, or veto basic policy decisions of the offeror through the use of dominant minority voting rights, use of proxy voting, or otherwise.

B. The offeror  is,  is not (check applicable box) owned or controlled by a parent company.

C. If the offeror checked "is" in paragraph B. above, it shall provide the following information:

Name and Main Office Address of  
Parent Company (include zip code)

Parent Company's Employer's  
Identification Number

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_

D. If the offeror checked "is not" in paragraph B. above, it shall insert its own Employer's Identification Number on the following line:

\_\_\_\_\_.

E. The offeror (or its parent company)  is,  is not (check applicable box) a publicly traded company.

F. The offeror shall insert the name(s) of its principal(s) on the following line:

\_\_\_\_\_.

**02 TYPE OF BUSINESS ORGANIZATION**

The offeror, by checking the applicable box, represents that:

A. It operates as  a corporation incorporated under the laws of the State of \_\_\_\_\_,  an individual,  a partnership,  a nonprofit organization, or  a joint venture.

B. If the offeror is a foreign entity, it operates as  an individual,  a partnership,  a nonprofit organization,  a joint venture, or  a corporation, registered for business in \_\_\_\_\_ (country).

**03 AUTHORIZED NEGOTIATORS**

The offeror represents that the following persons are authorized to negotiate on its behalf with the Authority in connection with this solicitation:

\_\_\_\_\_  
\_\_\_\_\_

**04 LOCAL DISADVANTAGED BUSINESS ENTERPRISE REPRESENTATION**

- A. Representation The offeror represents and certifies as part of its offer that it [ ] is, [ ] is not a local disadvantaged business enterprise as defined below. If the offeror is a local disadvantaged business enterprise, it further represents and certifies that there have been no material changes in the information provided with the most recent application for certification, and that the offeror and its affiliates continue to meet the Airports Authority's criteria for being a local disadvantaged business enterprise.
- B. Definitions "**Local Disadvantaged Business Enterprise**" (**LDBE**) is defined as a disadvantaged business concern which is organized for profit and which is located within a 100-mile radius of Washington, DC's zero mile marker. Those business entities located within counties that fall partially within the aforementioned boundary would also be eligible to participate in the Authority's LDBE Program. "**Located**" means that, as of the date of the contract solicitation, a business entity has an established office or place of business within a city, county, town, or political jurisdiction within the 100-mile radius referenced above. Evidence of whether a business is "**located**" within the region includes, but is not limited to: an address that is not a Post Office Box; employees at that address; business license; payment of taxes; previous performance of work similar to work to be performed under contract, or related work; and other indicia. A "**disadvantaged business**" is defined as a firm which is not dominant in its field, and which meets the Authority's disadvantaged business size standard(s) for this solicitation.
- C. Certification Proposed LDBEs must apply to the Authority's Department of Supplier Diversity for certification. For further instruction, see **Section IX on Local Disadvantaged Business Enterprise Participation (LDBE)** in this Solicitation.

**05 MINORITY BUSINESS ENTERPRISE REPRESENTATION**

- A. Representation. The offeror represents that it [ ] is, [ ] is not a Minority Business Enterprise.
- B. Definition. A **Minority Business Enterprise** is:
1. A firm of any size which is at least **51%** owned by one or more minority persons or, in the case of a publicly-owned corporation, at least **51%** of all stock must be owned by one or more minority persons; and whose management and daily business operations are controlled by such persons. A person is considered to be a minority if he or she is a citizen of lawful resident of the United States and is:
    - a. Black (a person having origins in any of the black racial groups in Africa);
    - b. Hispanic (a person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race);
    - c. Portuguese (a person of Portugal, Brazilian, or other Portuguese culture or origin, regardless of race);
    - d. Asian American (a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands); or
    - e. American Indian and Alaskan Native (a person having origins in any of the original peoples of North America.)
- C. Certification. As verification of this representation, the offeror is encouraged to attach a copy of a current MBE/WBE certification from any agency to be used for the Authority's monitoring of MBE/WBE participation in its program.



**06 WOMEN BUSINESS ENTERPRISE REPRESENTATION**

- A. Representation. The offeror represents that it [ ] is, [ ] is not a Women Business Enterprise.
- B. Definitions. A ***Women Business Enterprise*** is:
1. A firm of any size which is at least **51%** owned by one or more women or, in the case of a publicly-owned corporation, at least **51%** of stock must be owned by one or more such women; and
  2. Whose management and daily business operations are controlled by such persons.
- C. Certification. As verification of this representation, the offeror is encouraged to attach a copy of a current MBE/WBE certification from any agency to be used for the Authority's monitoring of MBE/WBE participation in its program.

**07 CONTRACTOR IDENTIFICATION**

Each offeror is requested to fill in the appropriate information set forth below:

DUNS Identification Number \_\_\_\_\_ (this number is assigned by Dun and Bradstreet, Inc., and is contained in that company's Data Universal Numbering System (DUNS). If the number is not known, it can be obtained from the local Dun & Bradstreet office. If no number has been assigned by Dun & Bradstreet, insert the word "none."

**08 CERTIFICATE OF INDEPENDENT PRICE DETERMINATION**

- A. The offeror certifies that --
1. The prices in this offer have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other offeror or competitor relating to (a) those prices, (b) the intention to submit a offer, or (c) the methods or factors used to calculate the prices offered;
  2. The prices in this offer have not been and will not be knowingly disclosed by the offeror, directly or indirectly, to any other offeror or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a negotiated solicitation) unless otherwise required by law; and
  3. No attempt has been made or will be made by the offeror to induce any other concern to submit or not to submit an offer for the purpose of restricting competition.
- B. Each signature of the offeror is considered to be a certification by the signatory that the signatory:
1. Is the person in the offeror's organization responsible for determining the prices being offered in its offer, and that the signatory has not participated and will not participate in any action contrary to subparagraphs A.1. through A.3. above; or
  2. a. Has been authorized, in writing, to act as agent for the following principals in certifying that those principals have not participated, and will not participate in any action contrary to subparagraphs A.1. through A.3. above

(Insert full name of person(s) in the offeror's organization responsible for determining the prices offered in this bid or proposal, and the title of his or her position in the offeror's organization);

- b. As an authorized agent, does certify that the principals named in subdivision B.2.a. above have not participated, and will not participate, in any action contrary to subparagraphs A.1. through A.3. above.
- c. As an agent, has not personally participated, and will not participate, in any action contrary to subparagraphs A.1. through A.3. above.

C. If the offeror deletes or modifies subparagraph A.2. above, the offeror must furnish with its offer a signed statement setting forth in detail the circumstances of the disclosure.

**09 SUBCONTRACTORS**

The offeror represents that it intends to utilize the below listed subcontractor(s) if it is awarded a contract as a result of this solicitation.

NAME OF SUBCONTRACTOR

SUBCONTRACTOR ADDRESS

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Once contract award has been made, the prime contractor shall not deviate from use of the above subcontractor(s) without prior submission and Contracting Officer approval of revised LDBE Exhibits, as applicable.

**10 CERTIFICATION OF COMPLIANCE WITH EMPLOYMENT ELIGIBILITY VERIFICATION, FORM I-9**

The offeror certifies that it [ ] has [ ] has not read and [ ] is [ ] is not in compliance with the Immigration Reform and Control Act of 1986, Pub. L. 99-603 (8 U.S.C. 1324a) and the regulations issued there under. The offeror also certifies that its subcontractors are in compliance with the Immigration Reform and Control Act of 1986, Pub. L. 99-603 (8 U.S.C. 1324a) and the regulations issued there under.

**11 CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS**

- A. 1. The Offeror certifies, to the best of its knowledge and belief, that -
  - a. The Offeror and/or any of its Principals -
    - (1) Have [ ] have not [ ] been debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal, state, or local agency within the three (3) year period preceding this offer;
    - (2) Have [ ] have not [ ] had contractor or business license revoked within the three (3) year period preceding this offer;

- (3) Have [ ] have not [ ] been declared non responsible by any public agency within the three (3) year period preceding this offer;
- (4) Have [ ] have not [ ], within the three (3) year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract or sub-contract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; violation of labor, employment, health, safety or environmental laws or regulations;
- (5) Have [ ] have not [ ], within the three (3) year period preceding this offer, been indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in subparagraph A.1.a.(4). of this provision; and
- (6) All performance evaluations within the three (3) year period preceding this offer have [ ] have not [ ] received a rating of satisfactory or better. If not, please provide a copy of the evaluation with detailed explanation.

b. The Offeror has [ ] has not [ ] within the three (3) year period preceding this offer, had one or more contracts terminated for default by any Federal, state or local agency.

2. "Principals," for the purposes of this certification, means officers; directors; owners; partners; and, persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions).

- B. The Offeror shall provide immediate written notice to the Contracting Officer if, at any time prior to contract award, the Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- C. A certification that any of the items in paragraph A. of this provision exists will not necessarily result in withholding of an award under this solicitation. However, the certification will be considered in connection with a determination of the Offeror's responsibility. Failure of the Offeror to furnish a certification or provide such additional information as requested by the Contracting Officer may render the Offeror nonresponsible.
- D. 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 paragraph A. of this provision. The knowledge and information of an Offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- E. The certification in paragraph A. of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly rendered an erroneous certification, the Contracting Officer may terminate the contract resulting from this solicitation for default.

**12 INSURANCE AFFIDAVIT**

The Offeror and their insurance agent, broker, or representative must review the insurance provisions to understand their requirements and cost to contract with the Airports Authority. The Insurance Affidavit form, which is included at Section X – Attachment 01, must be completed by the Offeror and its insurance provider. The Airports Authority may declare any offer as non-responsible without this affidavit, or made with an incomplete affidavit form.

The Offeror is required to review any insurance requirements that may be required to ensure it has adequate insurance or it will obtain the required insurance if awarded a Contract. Proof of insurance must be submitted before a Contract can be executed and insurance coverage must remain in effect during the term of the Contract.

For purpose of defining Additional Insured and Waiver of Subrogation, the term “MWAA or Airports Authority” shall mean the elected officials, boards, officers, employees, agents, and representatives of the Board.

**SECTION V - SOLICITATION PROVISIONS****01 SOLICITATION DEFINITIONS**

The term "Offer" means "Bid", "Offeror" means "Bidder" and "Solicitation" means an "Invitation for Bids" (IFB). "The Authority" means Metropolitan Washington Airports Authority.

**02 RESERVED****03 PROCUREMENT PROCESS – IFB**

The Airports Authority is using a one-step Invitation for Bids procurement process to award this contract.

**04 PUBLIC BID OPENING**

An online bid opening will be held 30 minutes after the deadline for bids. Access to the meeting will be available on the solicitation's information page, which is linked to <https://www.mwaa.com/business/current-contracting-opportunities>

The total price of each bid will be made public.

**05 BIDDER'S QUALIFICATIONS**

Bids will be considered only from responsible individuals, partnerships, joint ventures, corporations or other private organizations demonstrating that they have the ability, experience and demonstrated resources to complete work in a timely manner and maintain a staff of regular employees adequate to ensure continuous performance of the work. Labor relations measured by standards of compensation, promptness in meeting obligations, and frequency of personnel changes, among other things, will be considered in determining whether a bidder has an established operating organization.

**06 PRE-AWARD SURVEY**

A. The Authority reserves the right to perform or to have performed, an on-site survey of the bidder's facilities or previous work products and to investigate its other capabilities. This survey will serve to verify the data and representations submitted, and to determine that the bidder has overall capability adequate to meet the contract requirements.

Accordingly, the apparent lowest responsive bidder shall furnish the following when requested by the Contracting Officer:

1. A completed and signed Pre-Award Evaluation Data form, including, but not limited to, the following:
  - a. A statement of the Bidder's experience record.
  - b. The type of concerns for which the Bidder conducts business.
  - c. A list of contracts, if any, on which failure to complete within the specified time resulted in the assessment of liquidated damages.
  - d. List of the equipment to be used to perform the contract work.
  - e. Number of employees and hours each will work per day.
  - f. List of work to be subcontracted.
  - g. Qualifications and experience of key project individuals.
  - h. Documentation showing that the bidder has provided reasonable and customary pricing based on industry standards.

The low bidder will be required to demonstrate its ability to perform services contained in the solicitation, in a timely manner, to the complete satisfaction of the Authority. If the low bidder fails to meet this requirement, the Authority may reject the bidder as non-responsible. If the low bidder is eliminated, then the second lowest bidder will be required to demonstrate its ability to perform services as described herein. This process will continue to the next lowest bidder until a bidder successfully meets the specification requirements.

2. Financial Statements

Complete financial statements for the last two years, including Statement of Financial Position (Balance Sheet), Results of Operations (Income Statement), Statement of Changes in Financial Position (Net Change in Resources) and Statement of Current and Retained Earnings. These statements shall be certified and shall include disclosure of all facts which could impair or affect the statements presented.

3. Local Disadvantaged Business Enterprise data as set forth in Section IX. Note: The submittal of certain LDBE Exhibits, as listed in Solicitation Provision 20, are required to be submitted with the bid. Failure to submit these Exhibits may cause the bid to be found unacceptable and subsequently rejected.

- B. Doubt as to technical ability, productive capability, "good faith effort - LDBE," and financial strength which cannot be resolved affirmatively may result in a determination of non-responsibility by the Contracting Officer.

## 07 ACKNOWLEDGMENT OF AMENDMENTS TO SOLICITATION

Offerors shall acknowledge receipt of any amendment to this solicitation (a) by signing and returning the amendment; (b) by identifying the amendment number and date in the space provided for this purpose on the Solicitation Offer and Award form; or (c) by letter or facsimile. The Authority must receive the acknowledgment by the time specified for receipt of offers.

## 08 CONTRACT AWARD

- A. The Authority may award a contract resulting from this solicitation to the responsible bidder whose bid, conforming to the solicitation, will be most advantageous to the Authority, cost or price and other factors specified elsewhere in this solicitation, considered.
- B. The Authority may (1) reject any or all bids if such action is in the Authority's best interest, (2) accept other than the lowest bid only if there is a reason (i.e. the lowest bid is rejected), and/or (3) waive informalities and minor irregularities in bids received.
- C. The Authority may reject any bid that fails to conform to essential requirements of the IFB. Additionally, the Authority may reject a bid as non-responsive if the prices bid are materially unbalanced between line items or sub-line items. A bid is materially unbalanced when it is based on prices significantly less than cost for some work and prices which are significantly overstated in relation to cost for other work, and if there is a reasonable doubt that the bid will result in the lowest overall cost to the Authority even though it may be the low evaluated bid, or it is so unbalanced as to be tantamount to allowing an advance payment.
- D. Prompt payment discounts may be offered, however, the Authority will evaluate the cost of the offer without the offeror's prompt payment discount.

- E. In evaluation and consideration of this procurement, the Authority, when deemed in its best interest, reserves the right to make multiple and/or split awards.
- F. The Authority may accept any item or group of items of a bid, unless the bidder qualifies the bid by specific limitations. Unless otherwise provided in the Price Schedule, bids may not be submitted for quantities less than those specified. The Authority reserves the right to make an award on any item for a quantity less than the quantity offered, at the unit cost or prices offered, unless the bidder specifies otherwise in the bid.
- G. A written award or acceptance of bid mailed or otherwise furnished to the successful bidder within the time for acceptance specified in the bid shall result in a binding contract without further action by either party. Before the bidder's specified expiration time, the Authority may accept a bid (or part of a bid, as provided in paragraph D. above), unless a written notice of withdrawal is received before award.
- H. Neither financial data submitted with a bid, nor representations concerning facilities for financing, will form a part of the resulting contract. However, if the resulting contract contains a provision providing for price reduction for defective cost or pricing data, the contract price will be subject to reduction if cost or pricing data furnished is incomplete, inaccurate, or not current.

## **09 EXPLANATION TO PROSPECTIVE OFFERORS**

Any prospective offeror desiring an explanation or interpretation of the solicitation, drawings, specifications, etc., must request it in writing soon enough to allow a written reply to reach all prospective offerors before the submission of their offers. Oral explanations or instructions given before the receipt of offers will not be binding. Any information given to a prospective offeror concerning a solicitation will be furnished promptly to all other prospective offerors as an amendment of the solicitation if that information is necessary in submitting offers or if the lack of it would be prejudicial to any other prospective offerors.

## **10 PREPARATION OF OFFERS**

- A. Offers must be (1) submitted on the forms furnished by the Authority or on copies of those forms, and (2) manually signed. The person signing an offer must initial each erasure or change appearing on any offer form.
- B. The offer form may require offerors to submit offer prices for one or more items on various bases, including--
  - 1. Base price offer;
  - 2. Alternate prices;
  - 3. Units of work; or
  - 4. Any combination of subparagraphs B.1. through B.3 of this provision.
- C. Unless otherwise specified on the Price Schedule, the solicitation requires that offers on all items be reasonable and customary based on industry standards. The Authority has the sole discretion to determine whether the offer is reasonable and customary on all items and failure to do so may disqualify the offer.
- D. Alternate offers will not be considered unless this solicitation authorizes their submission.
- E. This solicitation precludes the submission of exceptions, conditions, qualifications, or exclusions as part of the bid or proposal. The offeror must respond to the solicitation as presented by the Authority without alteration or exception, unless otherwise allowed elsewhere in the solicitation.

- F. As applicable, for unit priced contracts, offerors shall (1) show the unit price/cost, including, unless otherwise specified, packaging, packing, and preservation and (2) enter the extended price/cost for the quantity of each item offered in the "Amount" column of the Price Schedule. In case of discrepancy between a unit price/cost and an extended price/cost, the unit price/cost will be presumed to be correct, subject, however, to correction to the same extent and in the same manner as any other mistake.

## 11 SUBMISSION OF BIDS

Bids and modifications thereof shall be submitted electronically via the link provided on the solicitation's information page, which is linked to <https://www.mwaa.com/business/current-contracting-opportunities>

## 12 LATE SUBMISSIONS, MODIFICATIONS, AND WITHDRAWALS OF BIDS

- A. Any bid submitted through the Airports Authority's online submission portal after the deadline may not be considered.
- B. Any modification or withdrawal of a bid is subject to the same conditions as in paragraph A. above.
- C. The recorded time of submission will be established by the Airports Authority's submission portal.
- D. Notwithstanding paragraph A. above, a late modification of an otherwise successful bid that makes its terms more favorable to the Authority will be considered.
- E. Bids may be withdrawn by written request by bidder or its authorized representative at any time prior to award.

## 13 SOLICITATION COSTS

This solicitation does not commit the Authority to pay any costs incurred in the preparation or submission of any offer or to procure or contract for any work.

## 14 TYPE OF CONTRACT

The Authority contemplates award of an indefinite quantity, fixed unit-price contract resulting from this solicitation.

## 15 MINIMUM BID ACCEPTANCE PERIOD

- A. "Acceptance period," as used in this provision, means the number of calendar days available to the Authority for awarding a contract from the date specified in this solicitation for receipt of bids.
- B. The Authority requires a minimum acceptance period of 60 calendar days from the receipt of bids.

## 16 RESERVED

## 17 RESTRICTION ON DISCLOSURE AND USE OF DATA

Offerors who include in their offers data that they do not want disclosed to the public for any purpose or use by the Authority except for evaluation purposes, shall--

- A. Mark the title page with the following legend:



"This offer includes data that shall not be disclosed outside the Authority and shall not be duplicated, used, or disclosed-in whole or in part-for any purpose other than to evaluate this offer. If, however, a contract is awarded to this offeror as a result of-or in connection with-the submission of this data, the Authority shall have the right to duplicate, use or disclose the data to the extent provided in the resulting contract. This restriction does not limit the Authority's right to use information contained in this data if it is obtained from another source without restriction. The data subject to this restriction are contained in sheets [insert numbers or other identification of sheets]"; and

B. Mark each sheet of data it wishes to restrict with the following legend:

**"Use or disclosure of data contained on this sheet is subject to the restriction on the title page of this offer."**

## **18 STATEMENT OF UNDERSTANDING**

By submission of this offer, the Offeror acknowledges that it has read and thoroughly understands the Statement of Work, agrees to all terms and conditions stated herein, and acknowledges that it can perform all work as required.

## **19 SITE INVESTIGATION**

By submission of this offer, the Offeror acknowledges that it has investigated and/or satisfied itself as to the conditions affecting the work and its nature and location, and the general and local conditions (including but not limited to equipment and facilities needed to perform the work) which can affect the work or the cost thereof. Any failure by the Offeror to acquaint itself with the available information shall not relieve it from responsibility for estimating properly the difficulty or cost of successfully performing the work. The Authority assumes no responsibility for any conclusions or interpretations made by the offeror on the basis of the information made available by the Authority.

## **20 OFFER DOCUMENTS**

All Offers must be submitted in both electronic (USB Drive only) and hard copy. Acceptable electronic formats are Portable Document Format (PDF), Word or Excel. Offerors shall include in their offer submission all documents required by this solicitation including, but not limited to, the following:

1. Solicitation Offer and Award
2. Price Schedule (Section III)
3. Representations and Certifications (Section IV)
4. Bid Bond, if applicable
5. LDBE Certification Exhibits as applicable:
  - Exhibit A, Voluntary Efforts to Obtain MBE/WBE Participation
  - Exhibit D, Contract Participation Form
6. Insurance Affidavit (Section X – Attachment 01)
7. Detailed itemized list identifying all equipment items, features, and options actually included as part of the specific unit being quoted to the Authority.
8. Other applicable documents addressing areas not listed above, but are required by the solicitation and/or Specifications.

In case of a discrepancy between the hard copy and the electronic copy, the hard copy will take precedence.

## 21 PROTESTS

- A. Protests must be typewritten and hand-delivered or mailed to the Manager of the Procurement and Contracts Department, (MA-950). Protests can be hand-delivered to Metropolitan Washington Airports Authority, 2733 Crystal Drive, Arlington, VA 22202 or mailed to Metropolitan Washington Airports Authority, 1 Aviation Circle, Washington, DC 20001-6000. If a protest is mailed, it should be sent by registered or certified mail, return receipt requested. Protests sent by facsimile machine will not be considered to meet the applicable deadline unless the original is hand-delivered or mailed and received by the Procurement and Contracts Department Manager prior to the applicable deadline.
- B. If a potential offeror believes it has grounds to protest any terms or conditions contained in or omitted from a solicitation issued by the Authority or an amendment to that solicitation, the potential offeror must file its protest with the Authority's Procurement and Contracts Department Manager. The protest must be received by the manager by the earlier of the following two dates: (1) Fourteen (14) days after issuance date of the solicitation or the date of the solicitation amendment containing the terms and conditions that are the subject of the protest, or (2) the due date for bids or proposals.
- C. If an unsuccessful offeror on an Authority solicitation believes it has grounds to protest the rejection of its bid or proposal, or the award of a contract (other than grounds relating to the terms or conditions contained in or omitted from a solicitation or solicitation amendment), that offeror must file its protest with the Procurement and Contracts Department Manager. The protest must be received by the manager within seven (7) calendar days after the date of the Authority's letter notifying the offeror that its bid or proposal was unsuccessful or not accepted.
- D. The Procurement and Contracts Department Manager will attempt to respond to a protest within seven (7) days from receipt of the protest. If the manager determines that additional time will be required to respond to the protest, the manager will, within seven (7) days, notify the protestor of the time period within which a response will be made.
- E. The Authority's President and Chief Executive Officer may proceed with Award of the contract and notice-to-proceed while a protest is pending if he determines it to be in the Authority's best interest to do so.

## 22 CONTRACTOR NOTIFICATION OF BID RESULTS

A record of the bid opening will be posted to the Airports Authority's Contracting Opportunities website within one business day of the bid opening. The record of the bid opening will identify the Apparent Low Bidder. Unsuccessful bidders shall be informed of the successful bid and the contract amount after award.

## 23 NOTICE TO LOW OFFERORS

The fact that an offeror submits the lowest offer does not automatically mean that it will be awarded the contract. Other factors, such as conformity of the offer to the solicitation, the offeror's responsibility, and any change in the Authority's requirements, must be considered. No contractual obligation or liability on the part of the Authority shall exist unless and until the contract is awarded. Therefore, no offeror should begin work on the services called for by this solicitation until after formal notice of contract award has been made by the Authority.

## 24 TITLE VI SOLICITATION NOTICE

The Metropolitan Washington Airports Authority, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all offerors that

it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

**SECTION VI - SPECIAL PROVISIONS****01 USE OF CONTRACT BY OTHER JURISDICTIONS**

The Mid-Atlantic Purchasing Team (MAPT) is the agreement between the Metropolitan Washington Council of Governments (MWCOG) and the Baltimore Metropolitan Council (BMC) to aggregate the public entity and non-profit purchasing volumes in the Maryland, Virginia and Washington, D.C. region (region).

The Metropolitan Washington Airports Authority is the Lead Agency in this procurement and has included this MAPT Cooperative Rider Clause in this solicitation indicating its willingness to allow other public entities to participate pursuant to the following Terms and Conditions:

**A. Terms**

1. Participating entities, through their use of the Cooperative Rider Clause, agree to the terms and conditions of the resulting contract to the extent that they can be reasonably applied to the participating entity.
2. Participating entities may also negotiate additional terms and conditions specific to their local requirements upon mutual agreement between the parties.

**B. Other Conditions - Contract and Reporting**

1. The contract resulting from this solicitation shall be governed by and 'construed in accordance with the laws of the State/jurisdiction in which the participating entity officially is located;
2. To provide to MWCOG and/or BMC contract usage reporting information, including but not limited to quantity, unit pricing and total volume of sales by entity, as well reporting other participating entities added on the contract, on demand and without further approval of contract participants;
3. Contract obligations rest solely with the participating entities only;
4. Significant changes in total contract value may result in further negotiations of contract pricing with the lead agency and participating entities.

In pricing and other conditions, vendors are urged to consider the broad reach and appeal of MAPT with public and non-profit entities in this region.

A list of the participating members of the Mid-Atlantic Purchasing Team can be found at the following websites:

- <http://www.mwcog.org/purchasing-and-bids/cooperative-purchasing/member-links>
- <http://www.baltometro.org/our-work/cooperative-purchasing/brcpc-representatives>

**02 CONTRACTOR PERFORMANCE EVALUATION**

The Airports Authority will conduct periodic written evaluations of the contractor's performance at various intervals throughout the life of this contract. Input for these evaluations will be provided by the Contracting Officer's Technical Representative (COTR), Contracting Officer, and, where appropriate, the end user. The COTR will be responsible for completing the evaluation forms and reviewing their contents with the contractor. The intervals at which these evaluations will be conducted will be established prior to commencement of performance and the contractor advised accordingly.

These evaluations should be looked upon as a partnering tool between the contractor and the Airports Authority. It is hoped that they will help the contractor improve performance and communications when needed, as well as provide an opportunity for the Airports Authority to recognize positive performance. It is the Airports Authority's intent to use these evaluations to help keep communications open between the parties and foster achievement of a quality end product.

### **03 LIMITATION OF OBLIGATIONS AND LIABILITIES**

Any and all obligations of the Airports Authority under this Agreement, and any and all liabilities of the Airports Authority that may arise under this Agreement, shall be limited to the Airports Authority's Aviation Enterprise Fund (which is used to finance the operation, maintenance, improvements, operating expenses and other activities of Ronald Reagan Washington National Airport and Washington Dulles International Airport), and any claim based on any such obligation or liability of the Airports Authority shall be limited to the revenues and assets of the Aviation Enterprise ("Enterprise"). No obligation of the Airports Authority under this Agreement, and no liability of the Airports Authority that may arise under this Agreement, shall constitute an obligation or liability of, or give rise to a claim against, or create any recourse against the Airports Authority's Dulles Corridor Enterprise Fund (which is used to finance the Dulles Toll Road's ongoing capital program and the construction of the Dulles Metrorail Project), or any of the revenues or assets of the Dulles Corridor Enterprise.

### **04 ORDERING**

Any supplies and services to be furnished under this contract shall be ordered by issuance of delivery orders by the individuals or activities designated in the Price Schedule. Such orders may be issued from date of award through the base contract term or after the term of any extensions of this contract.

All delivery orders are subject to the terms and conditions of this solicitation and resulting contract. In the event of conflict between a delivery order and the contract, the contract shall control.

If mailed, a delivery order is considered "issued" when the designated Authority personnel deposits the order in the mail. Orders may be issued orally or by written telecommunications only if authorized in the Price Schedule.

### **05 INDEFINITE QUANTITY**

This is an indefinite-quantity contract for the supplies or services specified, and effective for the period stated in the Price Schedule. The quantities of supplies and services specified in the Price Schedule are estimates only and are not purchased by this contract.

Delivery or performance shall be made only as authorized by orders issued in accordance with the Ordering provision. The Contractor shall furnish to the Authority, when and if ordered, the supplies or services specified in the Price Schedule up to and including the quantity designated in the Price Schedule as the "minimum."

There is no limit on the number of orders that may be issued. The Authority may issue orders requiring delivery to multiple locations.

Any order issued during the effective period of this contract and not completed within that period shall be completed by the Contractor within the time specified in the order. The contract shall govern the Contractor's and the Authority's rights and obligations with respect to that order to the same extent as if the order were completed during the contract's effective period; provided, that the Contractor shall not be required to make any deliveries under this contract after the base contract term or after the term of any extensions of this contract.

**06 PRICE ESCALATION**

The unit price may be subject to change after the first year of contract term and at the time of renewals only as a result of a substantial documented actual increase in Contractor's Direct Cost and shall not ever total more than five percent (5%) in any one year. The Metropolitan Washington Airports Authority (Airports Authority) will only consider a price increase if sufficient documentation is provided to support an increase ninety (90) days prior to the contract term expiration date. To request a price increase, the Contractor must submit a letter proposing the amount of the increase, along with an itemized list of any increased prices, showing the Contractor's current and revised price, the actual dollar difference and the percentage of the price increase by line item. Documentation from the Contractor's supplier(s) showing the actual dollar increase/decrease to the Contractor must accompany the request. Documentation must clearly show the dollar increase incurred by the Contractor on the applicable contract per line item. The letter shall be submitted to the Contracting Officer. If the increase is approved, the Contractor will be notified in writing. No price increase will be effective until the Contractor receives this notice.

**07 BRAND NAME OR APPROVED EQUAL**

Unless otherwise provided in the solicitation, or unless the name is followed by words indicating that no substitution is permitted, the reference to a certain brand name, make, model number, or manufacturer does not restrict the bid to the specific brand, make, model number or manufacturer identified. The specific references to a brand is not intended to exclude other products but to convey the salient characteristics of function, performance, design requirements and quality of the item described. Comparable products of other manufacturers will be considered if proof of comparability is contained in or accompanies the quotation. Any item which the Authority, at its sole discretion, determines to be equal to that which is specified, considering quality, workmanship, economy of operation, and suitability for the process intended, will be accepted. **The award will be made to the lowest acceptable bidder, on an item that the Authority considers to be equal to the brand described within the specifications.**

**08 AUTHORITY APPROVED EQUAL**

Bidders are advised that these specifications, although generally reflecting the characteristics, attributes, and construction features required, are set forth for illustrative purposes only. Bidders are invited for vehicles/equipment having generally the same characteristics of those specified. In submitting Bids, Bidders **must furnish specifications, brochures, and other relevant data** as required in the attached specifications so that the Authority may fairly determine what is in its best interest. The Authority, in its analysis, will consider relative costs, equivalency of features, serviceability, the design of the vehicle/item quoted, and other pertinent data.

**SECTION VII - CONTRACT PROVISIONS****01 DELIVERY AND ACCEPTANCE**

Delivery of the supply orders shall be made to:

**A. Ronald Reagan Washington National Airport (DCA)**

Metropolitan Washington Airports Authority  
Ronald Reagan Washington National Airport  
Warehouse Building  
2458 Warehouse Road  
Washington DC 20001

**B. Washington Dulles International Airport (IAD)**

Metropolitan Washington Airports Authority  
Washington Dulles International Airport  
Warehouse Building  
44701 Propeller Court  
Sterling, Virginia 20166

not later than 10 calendar days after issuance of a delivery order.

**02 CONTRACTOR INSPECTION REQUIREMENTS**

The Contractor is responsible for performing or having performed all inspections and tests necessary to substantiate that the supplies or services furnished under this contract conform to contract requirements, including any applicable technical requirements for specified manufacturers parts. This provision takes precedence over any Authority inspection and testing required in the contract's specifications, except for specialized inspections or tests specified to be performed solely by the Authority.

**03 INSPECTION OF SUPPLIES**

- A. Definition. "Supplies", as used in this provision, includes but is not limited to raw materials, components, intermediate assemblies, and products, and lots of supplies.
- B. The Contractor shall provide and maintain an inspection system acceptable to the Authority covering supplies under this contract and shall tender to Authority for acceptance only supplies that have been inspected in accordance with the inspection system and have been found by the Contractor to be in conformity with contract requirements. As part of the system, the Contractor shall prepare records evidencing all inspections made under the system and the outcome. These records shall be kept complete and made available to the Authority during contract performance and for as long afterwards as the contract requires. The Authority may perform reviews and evaluations as reasonably necessary to ascertain compliance with this paragraph. These reviews and evaluations shall be conducted in a manner that will not unduly delay the contract work. The right of review, whether exercised or not, does not relieve the Contractor of the obligations under the contract.
- C. The Authority has the right to inspect and test all supplies called for by the contract, to the extent practicable, at all places and times, including the period of manufacture, and in any event before acceptance. The Authority shall perform inspections and tests in a manner that will not unduly delay the work. The Authority assumes no contractual obligation to perform any inspection and test for the benefit of the Contractor unless specifically set forth elsewhere in this contract.

- D. If the Authority performs inspection or test on the premises of the Contractor or a subcontractor, the Contractor shall furnish, and shall require subcontractors to furnish, without additional charge, all reasonable facilities and assistance for the safe and convenient performance of these duties. Except as otherwise provided in the contract, the Authority shall bear the expense of Authority inspections or tests made at other than the Contractor's or subcontractor's premises; provided, that in case of rejection, the Authority shall not be liable for any reduction in the value of inspection or test samples.
- E. 1. When supplies are not ready at the times specified by the Contractor for inspection or test, the Contracting Officer may charge to the Contractor the additional cost of inspection or test.
2. The Contracting Officer may also charge the Contractor for any additional cost of inspection or test when prior rejection makes reinspection or retest necessary.
- F. The Authority has the right either to reject or to require correction of nonconforming supplies. Supplies are nonconforming when they are defective in material or workmanship or are otherwise not in conformity with contract requirements. The Authority may reject nonconforming supplies with or without disposition instructions.
- G. The Contractor shall remove supplies rejected or required to be corrected. However, the Contracting Officer may require or permit correction in place, promptly after notice, by and at the expense of the Contractor. The Contractor shall not tender for acceptance corrected or rejected supplies without disclosing the former rejection or requirement for correction, and, when required, shall disclose the corrective action taken.
- H. If the Contractor fails to promptly remove, replace, or correct rejected supplies that are required to be removed or to be replaced or corrected, the Authority may either (1) by contract or otherwise, remove, replace, or correct the supplies and charge the cost to the Contractor or (2) terminate the contract for default. Unless the Contractor corrects or replaces the supplies within the delivery schedule, the Contracting Officer may require their delivery and make an equitable price reduction. Failure to agree to a price reduction shall be a dispute.
- I. 1. If this contract provides for the performance of Authority quality assurance at source, and if required by the Authority, the Contractor shall furnish advance notification of the time (i) when Contractor inspection or tests will be performed in accordance with the terms and conditions of the contract and (ii) when the supplies will be ready for the Authority inspection.
2. The Authority request shall specify the period and method of the advance notification and the Authority representative to whom it shall be furnished. Requests shall not require more than two workdays of advance notification if the Authority representative is in residence in the Contractor's plant, nor more than seven workdays in other instances.
- J. The Authority shall accept or reject supplies as promptly as practicable after delivery, unless otherwise provided in the contract. Authority failure to inspect and accept or reject the supplies shall not relieve the Contractor from responsibility, nor impose liability on the Authority, for nonconforming supplies.
- K. Inspections and tests by the Authority do not relieve the Contractor of responsibility for defects or other failures to meet contract requirements discovered before acceptance. Acceptance shall be conclusive, except for latent defects, fraud, gross mistakes amounting to fraud, or as otherwise provided in the contract.
- L. If acceptance is not conclusive for any of the reasons in paragraph F. hereof, the Authority, in addition to any other rights and remedies provided by law, or under other provisions of this contract, shall have



the right to require the Contractor (1) at no increase in contract price, to correct or replace the defective or nonconforming supplies at the original point of delivery or at the Contractor's plant at the Contracting Officer's election, and in accordance with a reasonable delivery schedule as may be agreed upon between the Contractor and the Contracting Officer; provided, that the Contracting Officer may require a reduction in contract price if the Contractor fails to meet such delivery schedule, or (2) within a reasonable time after receipt by the Contractor of notice of defects or nonconformance, to repay such portion of the contract as is equitable under the circumstances if the Contracting Officer elects not to require correction or replacement. When supplies are returned to the Contractor, the Contractor shall bear the transportation cost from the original point of delivery to the Contractor's plant and return to the original point when that point is not the Contractor's plant. If the Contractor fails to perform or act as required in 1. or 2. above, and does not cure such failure within a period of ten days (or such longer period as the Contracting Officer may authorize in writing) after receipt of notice from the Contracting Officer specifying such failure, the Authority shall have the right to contract or otherwise to replace or correct such supplies and charge to the Contractor the cost occasioned the Authority thereby.

#### **04 TERMINATION FOR CONVENIENCE OF THE AUTHORITY**

- A. The Authority may terminate performance of work under this contract in whole or, from time to time, in part if the Contracting Officer determines that a termination is in the Authority's interest. The Contracting Officer shall terminate by delivering to the Contractor a Notice of Termination specifying the extent of termination and the effective date.
- B. After receipt of a Notice of Termination, and except as directed by the Contracting Officer, the Contractor shall immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due under this provision;
1. Stop work as specified in this notice.
  2. Place no further subcontracts or orders (referred to as subcontracts in this provision) for materials, services, or facilities, except as necessary to complete the continued portion of the contract.
  3. Terminate all subcontracts to the extent they relate to the work terminated.
  4. Assign to the Authority, as directed by the Contracting Officer, all right, title, and interest of the Contractor under the subcontracts terminated, in which case the Authority shall have the right to settle or to pay any termination settlement proposal arising out of those terminations.
  5. With approval or ratification to the extent required by the Contracting Officer, settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts; the approval or ratification will be final for purposes of this provision.
  6. As directed by the Contracting Officer, transfer title and deliver to the Authority (i) the fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced or acquired for the work terminated, and (ii) the completed or partially completed plans, drawings, information, and other property that, if the contract had been completed, would be required to be furnished to the Authority.
  7. Complete performance of the work not terminated.
  8. Take any action that may be necessary, or that the Contracting Officer may direct, for the protection and preservation of the property related to this contract that is in the possession of the Contractor and in which the Authority has or may acquire an interest.

9. As directed or authorized by the Contracting Officer, use its best efforts to sell and/or return at the Authority's expense to manufacturers, suppliers, or distributors for full credit less any applicable restocking charges, any property of the types referred to in subparagraph (6) above; provided, however, that the Contractor (i) is not required to extend credit to any purchaser and (ii) may acquire the property under the conditions prescribed by, and at prices approved by, the Contracting Officer. The proceeds of any transfer or disposition will be applied to reduce any payments to be made by the Authority under this contract, credited to the price or cost of the work, or paid in any other manner directed by the Contracting Officer.
- C. After termination, the Contractor shall submit a final termination settlement proposal to the Contracting Officer in the form and with the certification prescribed by the Contracting Officer. The Contractor shall submit the proposal promptly, but no later than one year from the effective date of termination, unless extended in writing by the Contracting Officer upon written request of the Contractor within this one-year period. However, if the Contracting Officer determines that the facts justify it, a termination settlement proposal may be received and acted on after one year of any extension. If the Contractor fails to submit the proposal within the time allowed, the Contracting Officer may determine, on the basis of information available, the amount, if any, due the Contractor because of the termination and shall pay the amount determined.
  - D. Subject to paragraph C. above, the Contractor and the Contracting Officer may agree upon the whole or any part of the amount to be paid because of the termination. The amount may include a reasonable allowance for profit on work done. However, the agreed amount, whether under this paragraph D. or paragraph E. below, exclusive of costs shown in subparagraph E. 3. below, may not exceed the total contract price as reduced by (a) the amount of payments previously made and (b) the contract price of work not terminated. The contract shall be modified, and the Contractor paid the agreed amount. Paragraph E. below shall not limit, restrict, or affect the amount that may be agreed upon to be paid under this paragraph.
  - E. If the Contractor and the Contracting Officer fail to agree on the whole amount to be paid because of the termination of work, the Contracting Officer shall pay the Contractor the amounts determined by the Contracting Officer as follows, but without duplication of any amounts agreed on under paragraph D. above:
    1. The Contract price for completed supplies or services accepted by the Authority (or sold or acquired under subparagraph B.9. above) not previously paid for, adjusted for any saving of freight and other charges.
    2. The total of -
      - a. The costs incurred in the performance of the work terminated, including initial costs and preparatory expense allocable thereto, but excluding any costs attributable to supplies or services paid or to be paid under subparagraph E.1. above;
      - b. The cost of settling and paying termination settlement proposals under terminated subcontracts that are properly chargeable to the terminated portion of the contract if not included in subdivision a. above; and
      - c. A sum, as profit on subdivision a. above, determined by the Contracting Officer in effect on the date of this contract, to be fair and reasonable; however, if it appears that the Contractor would have sustained a loss on the entire contract had it been completed, the Contracting Officer shall allow no profit under this subdivision c. and shall reduce the settlement to reflect the indicated rate of loss.

3. The reasonable costs of settlement of the work terminated, including -
  - a. Accounting, legal, clerical, and other expenses reasonably necessary for the preparation of termination settlement proposals and supporting data;
  - b. The termination and settlement of subcontracts (excluding the amounts of such settlements); and
  - c. Storage, transportation, and other costs incurred, reasonably necessary for the preservation, protection, or disposition of the termination inventory.
- F. Except for normal spoilage, and except to the extent that the Authority expressly assumed the risk of loss, the Contracting Officer shall exclude from the amounts payable to the Contractor under paragraph E. above, the fair value, as determined by the Contracting Officer, of property that is destroyed, lost, stolen, or damaged so as to become undeliverable to the Authority or to a buyer.
- G. The Contractor shall have the right of appeal, under the Disputes provision, from any determination made by the Contracting Officer under paragraphs C., E., or I, except that if the Contractor failed to submit the termination settlement proposal within the time provided in paragraphs C. or I., and failed to request a time extension, there is no right of appeal. If the Contracting Officer has made a determination of the amount due under paragraphs C., E., or I., the Authority shall pay the Contractor (1) the amount determined by the Contracting Officer if there is no right of appeal or if no timely appeal has been taken, or (2) the amount finally determined on an appeal.
- H. In arriving at the amount due the Contractor under this provision, there shall be deducted -
  1. All unliquidated advance or other payments to the Contractor under the terminated portion of this contract;
  2. Any claim which the Authority has against the Contractor under this contract; and
  3. The agreed price for, or the proceeds of, sale of materials, supplies or other things sold or sold under the provisions of Paragraph B.9 of this provision and not recovered by or credited to the Authority.
  4. The amount credited to the Contractor for materials, supplies or other things that are returned to the manufacturers, suppliers or distributors in accordance with Paragraph B.9. of this provision and not recovered by or credited to the Authority.
- I. If the termination is partial, the Contractor may file a proposal with the Contracting Officer for an equitable adjustment of the price(s) of the continued portion of the contract. The Contracting Officer shall make any equitable adjustment agreed upon. Any proposal by the Contractor for an equitable adjustment under this provision shall be requested within 90 days from the effective date of termination; unless extended in writing by the Contracting Officer.
- J.
  1. The Authority may, under the terms and conditions it prescribes, make partial payments and payments against costs incurred by the Contractor for the terminated portion of the contract, if the Contracting Officer believes that total of these payments will not exceed the amount to which the Contractor will be entitled.
  2. If the total payments exceed the amount finally determined to be due, the Contractor shall repay the excess to the Authority upon demand, together with interest computed at the rate

established by the Secretary of the Treasury under 50 U.S.C. App. 1215(b)(2). Interest shall be computed for the period from the date the excess payment is received by the Contractor to the date the excess is repaid. Interest shall not be charged on any excess payment due to a reduction in the Contractor's termination settlement proposal because of retention or other disposition of termination inventory until 10 days after the date of the retention or disposition, or a later date determined by the Contracting Officer because of the circumstances.

- K. Unless otherwise provided in this contract or by statute, the Contractor shall maintain all records and documents relating to the terminated portion of this contract for three years after final settlement. This includes all books and other evidence bearing on the Contractor's costs and expenses under this contract. The Contractor shall make these records and documents available to the Authority, at the Contractor's office, at all reasonable times, without any direct charge. If approved by the Contracting Officer, photographs, microphotographs, or other authentic reproductions may be maintained instead of original records and documents.

## 05 DEFAULT

- A. 1. The Authority may, subject to paragraphs C. and D. below, by written notice of default to the Contractor, terminate this contract in whole or in part if the Contractor fails to -
- a. Deliver the supplies or to perform the services within the time specified in this contract or any extension;
  - b. Make progress, so as to endanger performance of this contract (but see subparagraph A. 2. below); or
  - c. Perform any of the other provisions of this contract (but see subparagraph A. 2. below).
2. The Authority's right to terminate this contract under subdivisions 1.b. and 1.c. above, may be exercised if the Contractor does not cure such failure within ten days (or more if authorized in writing by the Contracting Officer) after receipt of the notice from the Contracting Officer specifying the failure.
- B. If the Authority terminates this contract in whole or in part, it may acquire, under the terms and in the manner the Contracting Officer considers appropriate, supplies or services similar to those terminated, and the Contractor will be liable to the Authority for any excess costs for those supplies or services. However, the Contractor shall continue the work not terminated.
- C. Except for defaults of subcontractors at any tier, the Contractor shall not be liable for any excess costs if the failure to perform the contract arises from causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include (1) acts of God or of the public enemy, (2) acts of the Authority in its contractual capacity, (3) fires, (4) floods, (5) epidemics, (6) quarantine restrictions, (7) strikes, (8) freight embargoes, and (9) unusually severe weather. In each instance, the failure to perform must be beyond the control and without the fault or negligence of the Contractor.
- D. If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either, the Contractor shall not be liable for any excess costs for failure to perform, unless the subcontracted supplies or services were obtainable from other sources in sufficient time for the Contractor to meet the required delivery schedule.
- E. If the contract is terminated for default, the Authority may require the Contractor to transfer title and deliver to the Authority, as directed by the Contracting Officer, any (1) completed supplies, and (2)

partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (collectively referred to as "manufacturing materials" in this provision) that the Contractor has specifically produced or acquired for the terminated portion of this contract. Upon direction of the Contracting Officer, the Contractor shall also protect and preserve property in its possession in which the Authority has an interest.

- F. The Authority shall pay contract price for completed supplies delivered and accepted. The Contractor and Contracting Officer shall agree on the amount of payment for manufacturing materials delivered and accepted and for the protection and preservation of the property. Failure to agree will be a dispute under the Disputes provision. The Authority may withhold from these amounts any sum the Contracting Officer determines to be necessary to protect the Authority against loss because of outstanding liens or claims of former lien holders.
- G. If, after termination, it is determined that the Contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Authority.
- H. The rights and remedies of the Authority in this provision are in addition to any other rights and remedies provided by law or under this contract.

## **06 ORDER OF PRECEDENCE**

Any inconsistency in this solicitation or contract shall be resolved by giving precedence in the following order:

- A. Price Schedule (excluding the specifications);
- B. Representations and Certifications;
- C. Solicitation Provisions;
- D. Special Provisions
- E. Contract Provisions;
- F. Other documents, exhibits, and attachments;
- G. The specifications; and
- H. The drawings, if applicable.

## **07 WARRANTY OF SUPPLIES OF A NONCOMPLEX NATURE**

- A. Definitions.

"Acceptance," as used in this provision, means the act of an authorized representative of the Authority by which the Authority assumes for itself, or as an agent of another, ownership of existing supplies, or approves specific services as partial or complete performance of the contract.

"Correction," as used in this provision, means the elimination of a defect.

"Supplies," as used in this provision, means the end item furnished by the Contractor and related services required under the contract. The work does not include "data."

- B. Contractor's obligations.

- 1. Notwithstanding inspection and acceptance by the Authority of supplies furnished under this contract, or any condition of this contract concerning the conclusiveness thereof, the Contractor warrants that for one year all supplies furnished:
  - a. Are of a quality to pass without objection in the trade under the contract description;

- b. Are fit for the ordinary purposes for which the supplies are used;
  - c. Are within the variations permitted by the contract, and are of an even kind, quality, and quantity within each unit and among all units;
  - d. Are adequately contained, packaged, and marked as the contract may require; and
  - e. Conform to the promises or affirmations of fact made on the container.
2. When return, correction, or replacement is required, transportation charges and responsibility for the supplies while in transit shall be borne by the Contractor. However, the Contractor liability for the transportation charges shall not exceed an amount equal to the cost of transportation by the usual commercial method of shipment between the place of delivery specified in this contract and the Contractor's plant, and return.
  3. Any supplies or parts thereof, corrected or furnished in replacement under this provision, shall also be subject to the terms of this provision to the same extent as supplies initially delivered. The warranty, with respect to supplies or parts thereof, shall be equal in duration to that in paragraph B.1. of this provision and shall run from the date of delivery of the corrected or replaced supplies.
- C. Remedies available to the Authority.
1. The Contracting Officer shall give written notice to the Contractor of any breach of warranties in paragraph B.1. of this provision within 45 days after discovery of the defect.
  2. Within a reasonable time after the notice, the Contracting Officer may either--
    - a. Require, by written notice, the prompt correction or replacement of any supplies or parts thereof (including preservation, packaging, packing, and marking) that do not conform with the requirements of this contract within the meaning of paragraph B.1. of this provision; or
    - b. Retain such supplies and reduce the contract price by an amount equitable under the circumstances.
  3. a. If the contract provides for inspection of supplies by sampling procedures, conformance of suppliers or components subject to warranty action shall be determined by the applicable sampling procedures in the contract. The Contracting Officer--
    - (1) May, for sampling purposes, group any supplies delivered under this contract;
    - (2) Shall require the size of the sample to be that required by sampling procedures specified in the contract for the quantity of supplies on which warranty action is proposed;
    - (3) May project warranty sampling results over supplies in the same shipment or other supplies contained in other shipments even though all of such supplies are not present at the point of reinspection; provided, that the supplies remaining are reasonable representative of the quantity on which warranty action is proposed; and

- (4) Need not use the same lot size as on original inspection or reconstitute the original inspection lots.
  - b. Within a reasonable time after notice of any breach of the warranties specified in paragraph B.1. of this provision, the Contracting Officer may exercise one or more of the following options:
    - (1) Require an equitable adjustment in the contract price for any group of supplies.
    - (2) Screen the supplies grouped for warranty action under this provision at the Contractor's expense and return all nonconforming supplies to the Contractor for correction or replacement.
    - (3) Require the Contractor to screen the supplies at locations designated by the Authority within the continental United States and to correct or replace all nonconforming supplies.
    - (4) Return the supplies grouped for warranty action under this provision to the Contractor (irrespective of the f.o.b. point or the point of acceptance) for screening and correction or replacement.
4.
  - a. The Contracting Officer may, by contract or otherwise, correct or replace the nonconforming supplies with similar supplies from another source and charge to the Contractor the cost occasioned to the Authority thereby if the Contractor--
    - (1) Fails to make redelivery of the corrected or replaced supplies within the time established for their return; or
    - (2) Fails either to accept return of the nonconforming supplies or fails to make progress after their return to correct or replace them so as to endanger performance of the delivery schedule, and in either of these circumstances does not cure such failure within a period of 10 days (or such longer period as the Contracting Officer may authorize in writing) after receipt of notice from the Contracting Officer specifying such failure.
  - b. Instead of correction or replacement by the Authority, the Contracting Officer may require an equitable adjustment of the contract price. In addition, if the Contractor fails to furnish timely disposition instructions, the Contracting Officer may dispose of the nonconforming supplies for the Contractor's account in a reasonable manner. The Authority is entitled to reimbursement from the Contractor, or from the proceeds of such disposal, for the reasonable expenses of the care and disposition of the nonconforming supplies, as well as for excess costs incurred or to be incurred.
5. The rights and remedies of the Authority provided in this provision are in addition to and do not limit any rights afforded to the Authority by any other provision of this Contract.

## **08 RESPONSIBILITY FOR SUPPLIES**

- A. Title to supplies furnished under this contract shall pass to the Authority upon formal acceptance, regardless of when or where the Authority takes physical possession, unless the contract specifically provided for earlier passage of title.

- B. Unless the contract specifically provides otherwise, risk of loss of or damage to supplies shall remain with the Contractor until, and shall pass to the Authority upon--
1. Delivery of the supplies to a carrier, if transportation is f.o.b. origin; or
  2. Acceptance by the Authority or delivery of the supplies to the Authority at the destination specified in the contract, whichever is later, if transportation is f.o.b. destination.
- C. Paragraph B. above shall not apply to supplies that so fail to conform to contract requirements as to give a right of rejection. The risk of loss of or damage to such nonconforming supplies remains with the Contractor until cure or acceptance. After cure or acceptance, paragraph B. above shall apply.
- D. Under paragraph B. above, the Contractor shall not be liable for loss of or damage to supplies caused by the negligence of officers, agents, or employees of the Authority acting within the scope of their employment.

## **09 F.O.B. DESTINATION**

- A. The term "f.o.b. destination," as used in the provision, means--
1. Free of expense to the Authority on board the carrier's conveyance, at a specified delivery point where the consignee's facility (plant, warehouse, store, lot, or other location to which shipment can be made) is located; and
  2. Supplies shall be delivered to the destination consignee's wharf (if destination is a port city and supplies are for export), warehouse unloading platform, or receiving dock, at the expense of the Contractor. The Authority shall not be liable for any delivery, storage, demurrage, accessorial, or other charges involved before the actual delivery (or "constructive placement" as defined in carrier tariffs) of the supplies to the destination, unless such charges are caused by an act or order of the Authority acting in its contractual capacity. If rail carrier is used, supplies shall be delivered to the specified unloading platform of the consignee. If motor carrier (including "piggyback") is used, supplies shall be delivered to truck tailgate at the unloading platform of the consignee. If the Contractor uses rail carrier or freight forwarder for less than carload shipments, the Contractor shall assure that the carrier will furnish tailgate delivery if transfer to truck is required to complete delivery to consignee.
- B. The Contractor shall--
1. a. Pack and mark the shipment to comply with contract specifications; or  
b. In the absence of specifications, prepare the shipment in conformance with carrier requirements;
  2. Prepare and distribute commercial bills of lading;
  3. Deliver the shipment in good order and condition to the point of delivery specified in the contract;
  4. Be responsible for any loss of and/or damage to the goods occurring before receipt of the shipment by the consignee at the delivery point specified in the contract;
  5. Furnish a delivery schedule and designate the mode of delivering carrier; and



6. Pay and bear all charges to the specified point of delivery.

## 10 DISPUTES

### A. General

This contract provision sets forth the Authority's disputes procedures for disputes under remedy-granting contract provisions and non-material breaches of contract. It applies to all disputes except disputes based upon a material breach of contract.

It is the Authority's policy to encourage resolution of disputes by mutual agreement between the Contracting Officer and the Contractor. Consistent with this intent, the Authority requires, as a condition precedent to the initiation of litigation, the exhaustion of the administrative disputes procedure described in this contract provision. If the dispute is not resolved by the administrative disputes procedure, the contractor may proceed to court litigation in accordance with the agreements contained in this contract.

### B. Waiver of Jury Trial

To the fullest extent permitted by law, the Contractor and the Authority hereby waive their respective rights to a trial by jury on any dispute or claim or cause of action upon, arising under, arising out of or related to, the contract. In addition, the Contractor and the Authority hereby waive their respective rights to trial by jury in any other proceeding or litigation of any type brought by any of the contracting parties against the other party whether with respect to contract claims or actions, tort claims, or otherwise. Without limiting the foregoing, the Authority and the Contractor further agree that their respective rights to a trial by jury are waived as to any action, counterclaim, or other proceeding that seeks, in whole or in part, to challenge the validity or enforceability of the contract. This waiver of jury trial shall also apply to any subsequent amendments, modifications, renewals or supplements to the contract.

### C. Performance Pending Dispute

The contractor shall proceed diligently with performance of the contract's requirements, including the disputed portions, pending resolution of any dispute.

### D. Steps of Administrative Disputes Procedure

#### 1. Claim Submission

The Contractor shall submit a written claim signed and certified as true and accurate and that it is made in good faith based upon supporting facts and cost and pricing data that are current, accurate and complete as of date of submission and date of any agreement; the claim and certifications shall be made by a duly authorized officer of the Contractor. The claim at a minimum shall include a) the basis of liability; b) basis of request for additional compensation, time extension request or other relief requested; c) a narrative that fully explains the basis for liability; d) the claim must state that it is made in good faith, that the supporting facts and cost and pricing data are current, accurate and complete as of the date of certification, and the amount of additional compensation, time of performance, or other relief requested reasonably and accurately reflect the added cost, added time of performance, and other damage the Contractor reasonably believes it has incurred; and e) the claim must include or specifically reference all actual cost accounting records, actual schedule data, as-built data, or other data or facts that relate to any aspect of the Contractor's claim.

## 2. Prohibited Claim Formats

Monetary claims based on anticipatory profits are prohibited. Monetary claims requests based on a total cost approach are prohibited. Time extension requests or claims on a total time approach are prohibited.

## E. Claims Review and Disposition

### 1. Contracting Officer Discussions

Discussions between the Contracting Officer and the Contractor concerning the claim presented shall occur within a reasonable period of time after submission of the certified claim and receipt by the Contracting Officer of sufficient information, including, but not limited to, information resulting from an audit, if deemed necessary. Discussions shall be conducted in good faith for the resolution of the dispute, including the exchange of relevant information. If requested by the Contracting Officer, the COTR shall provide the Contracting Officer with a written response to the claim that references the applicable provisions of the statement of work, contract requirements, and applicable contract provisions and may include a specific request that the COTR obtain additional information or audit access, or both. The Contractor shall provide such additional information or audit access and failure to promptly provide such information or access shall be a bar to the claim.

### 2. Alternative Dispute Resolution (ADR)

Non-binding evaluative mediation is established as the ADR for this contract. The parties agree that the following procedures shall apply:

- a. Selection of the neutral mediator shall be as made by the parties; a neutral means an individual who is trained or experienced in conducting dispute resolution proceedings and in providing dispute resolution services related to significant construction contracts.
- b. All statements made as a part of the proceeding and all memoranda, work products or other materials made during the course of the mediation are deemed confidential and are to be treated in accordance with Virginia Code Section 8.01-576.10; in addition, the statements and any written materials are considered privileged settlement discussions, are not party admissions, and are made without prejudice to any party's legal position, if mediation does not result in an agreement.
- c. Materials prepared for the mediation are not subject to disclosure in any other judicial or administrative proceeding.
- d. Informal discovery is permissible in the form of production or inspection of certain categories of documents.
- e. The parties agree to split evenly the costs of the mediator and any incidental costs associated with holding the mediation.

### 3. Impasse and Litigation

If the ADR procedure does not result in an agreement, an impasse can be declared.

#### 4. Contracting Officer's Final Decision

Upon the declaration of an impasse, the Contractor shall request a written final decision by the Contracting Officer. The Contracting Officer shall issue a final decision within sixty (60) calendar days from receipt of the request and adequate documentation unless the dispute is determined to be complex in nature. The final decision of the Contracting Officer shall be final and conclusive unless within thirty (30) calendar days from receipt of the Contracting Officer's final decision, the Contractor mails or otherwise furnishes a written notice of appeal to the Manager, Procurement and Contracts Department.

#### 5. Litigation

Following the completion of the administrative disputes resolution process without an agreement as indicated by the timely receipt of a notice of appeal, the dispute may be resolved by litigation without a jury before a court of competent jurisdiction within the Commonwealth of Virginia.

### F. Remedies for inappropriate claims

The following remedies are provided for the Authority's use in the event the Contractor submits reckless or frivolous claims or false, misleading, or material misrepresentations relating to claims.

#### 1. Remedies for Reckless or Frivolous Claims

In the event that the Contractor makes a claim against the Authority and the Contractor's claim, as certified by an officer of the contractor, is a) found by a court to be based on any reckless statement contained in the certification of the claim or b) is found by a court to be of frivolous nature or materially overstated in amount, then the Contractor shall be liable to the Authority and shall pay to it a percentage of costs incurred by the Authority in investigating, analyzing, negotiating, mediating and litigating (including attorneys' fees) the frivolous or overstated claim. The percentage of costs referenced shall be equal to the percentage of the contractor's total claim which is determined through litigation to be the result of a reckless statement or frivolous claim. "Frivolous" shall mean having no basis in law or in fact. This remedy is a contractual remedy and does not otherwise affect the other rights of the Authority in law or in equity.

#### 2. Remedies for False or Misleading Statements or Material Misrepresentation

Any claim by the Contractor that is based on false or reckless statements that mislead the Authority or material misrepresentations shall entitle the Airports Authority to a full recovery of all costs incurred by the Authority in investigating, analyzing, negotiating, mediating and litigating (including attorneys' fees) the claim. This remedy is a contractual remedy and does not otherwise affect the other rights of the Authority in law or in equity.

## 11 INTERPRETATION OR MODIFICATION

Except as otherwise provided in this contract, no oral statement of any person and no written statement of anyone other than the Contracting Officer, shall modify or otherwise affect the terms or meaning of the contract or specifications. All requests for interpretation or modifications shall be made in writing to the Contracting Officer.

**12 NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT**

- A. The Contractor shall report to the Contracting Officer, promptly and in reasonable written detail, each notice or claim of patent or copyright infringement based on the performance of this contract of which the Contractor has knowledge.
- B. In the event of any claim or suit against the Authority, on account of any alleged patent or copyright infringement arising out of the performance of this contract or out of the use of any supplies furnished or work or services performed hereunder, the Contractor shall furnish to the Authority, when requested by the Contracting Officer, all evidence and information in possession of the Contractor pertaining to such suit or claim. Such evidence and information shall be furnished at the expense of the Authority except where the Contractor, has agreed to indemnify the Authority.

**13 PATENT INDEMNITY**

Except as otherwise provided, and except to the extent infringement was caused by the Authority, the Contractor agrees to indemnify the Authority and its officers, agents, and employees against liability, including costs and expenses, for infringement upon any Letters Patent of the United States arising out of the performance of this contract.

**14 CHANGES**

- A. The Contracting Officer may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this contract in any one or more of the following:
1. Drawings, designs, or specifications when the supplies to be furnished are to be specially manufactured for the Authority in accordance with the drawings, designs, or specifications.
  2. Method of shipment or packing.
  3. Place of delivery.
- B. If any such change causes an increase or decrease in the cost of, or the time required for, performance of any part of the work under this contract, whether or not changed by the order, the Contracting Officer shall make an equitable adjustment in the contract price, the delivery schedule, or both, and shall modify the contract.
- C. The Contractor must submit any "proposal for adjustment" (hereafter referred to as proposal) under this provision within 30 days from the date of receipt of the written order. However, if the Contracting Officer decides that the facts justify it, the Contracting Officer may receive and act upon a proposal submitted before final payment of the contract.
- D. If the Contractor's proposal includes the cost of property made obsolete or excess by the change, the Contracting Officer shall have the right to prescribe the manner of the disposition of the property.
- E. Failure to agree to any adjustment shall be a dispute under the Disputes provision. However, nothing in this provision shall excuse the Contractor from proceeding with the contract as changed.

**15 EXCUSABLE DELAYS**

- A. Except for defaults of subcontractors at any tier, the Contractor shall not be in default because of any failure to perform this contract under its terms if the failure arises from causes beyond the control and without the fault or negligence of the Contractor. Examples of these causes are (1) acts of God or of the

public enemy, (2) acts of the Authority in either its sovereign or contractual capacity, (3) fires, (4) floods, (5) epidemics, (6) quarantine restrictions, (7) strikes, (8) freight embargoes, and (9) unusually severe weather. In each instance, the failure to perform must be beyond the control and without the fault or negligence of the Contractor. "Default" includes failure to make progress in the work so as to endanger performance.

- B. If the failure to perform is caused by the failure of a subcontractor at any tier to perform or make progress, and if the cause of the failure was beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either, the Contractor shall not be deemed to be in default, unless
1. The subcontracted supplies or services were obtainable from other sources;
  2. The Contracting Officer ordered the Contractor in writing to purchase these supplies or services from the other source; and
  3. The Contractor failed to comply reasonably with this order.
- C. Upon request of the Contractor, the Contracting Officer shall ascertain the facts and extent of the failure. If the Contracting Officer determines that any failure to perform results from one or more of the causes above, the delivery schedule shall be revised, subject to the rights of the Authority under the termination provision of this contract.

## **16 MODIFICATION PROPOSALS - PRICE BREAKDOWN**

The Contractor, in connection with any proposal he makes for a contract modification, shall furnish a price breakdown, itemized as required by the Contracting Officer. Unless otherwise directed, the breakdown shall be in sufficient detail to permit an analysis of all material, labor, equipment, subcontract, and overhead costs, as well as profit, and shall cover all work involved in the modification, whether such work was deleted, added or changed. Any amount claimed for subcontracts shall be supported by a similar price breakdown. In addition, if the proposal includes a time extension, a justification therefore shall also be furnished. The proposal, together with the price breakdown and time extension justification, shall be furnished by the date specified by the Contracting Officer.

## **17 CLAIMS FOR ADDITIONAL COST**

If the Contractor wishes to make a claim for an increase in the Contract Sum, he shall give the Authority written notice thereof within twenty (20) days following the occurrence of the event giving rise to the claim. This notice shall be given by the Contractor prior to proceeding to execute the work, except in an emergency endangering life or property. No such claim shall be valid unless so made. Any change in the Contract Sum resulting from such claim shall be authorized by contract modification.

## **18 CORRESPONDENCE PROCEDURES**

Correspondence of any nature shall be directed to the Contracting Officer.

## **19 BILLING INSTRUCTIONS**

The Contractor shall submit, no more than once each month, an original of both its invoices and the Authority's Invoice Attachment Form (Exhibit J1), listing all subcontractors and their activities, either electronically via e-mail to [invoices@mwa.com](mailto:invoices@mwa.com) or in hard copy to the following address:

Metropolitan Washington Airports Authority  
Accounting Department, MA-22B  
1 Aviation Circle  
Washington, DC 20001-6000

Failure to include required Exhibit J1 Attachment may delay payment of your invoice.

Invoices shall be properly identified with the Contractor's name, address and applicable contract/purchase order number. Invoices without proper identification will be returned to the sender. Invoices in excess of one (1) per month will be returned to the contractor.

The Contractor is encouraged to utilize banks owned and controlled by Disadvantaged Business Enterprises. To obtain a list of Disadvantaged Business Enterprise banks, contact the Department of Supplier Diversity at 703-417-8660.

## 20 PAYMENTS

- A. The Authority shall pay the Contractor the contract price as provided in this contract.
- B. The Authority strongly recommends that contractors participate in a program whereby payments under this contract are made via electronic funds transfer into the contractor's bank. Contractor requests to initiate such service shall include the bank name, address, account number, contact person, telephone number, and American Bankers Association (ABA) 9-digit identifying number. The initial request and any subsequent changes must be signed by the contractor's signatory of the contract and shall be submitted directly to the Authority's Finance Office (MA-22B).
- C. The Authority shall make progress payments as deliveries are made. The Contractor shall furnish to the Authority the Invoice Attachment Form (See Exhibit J1), if applicable, which will be included in the invoice submission. This Form shall provide information on all subcontractors, each subcontractor's scope of services, and the subcontract dollar amount for those deliveries. When reviewing the Contractors invoicing for the reporting period, the Authority will use the Invoice Attachment Form as verification of subcontracting activities and payments. Failure to include required Exhibit J1 Attachment may delay payment of your invoice.
- D. If the Contracting Officer finds that satisfactory progress was achieved during any period for which a progress payment is to be made, the Contracting Officer shall authorize payment to be made in full. However, if satisfactory progress has not been made, the Contracting Officer may retain a maximum of 10 percent of the amount of the payment until satisfactory progress is achieved. When the work is substantially complete, the Contracting Officer may retain from previously withheld funds and future progress payments that amount which the Contracting Officer considers adequate for protection of the Authority and shall release to the Contractor all the remaining withheld funds. Also, on completion and acceptance of each portion of work, or other division of the contract, for which the price is stated separately in the contract, payment shall be made for the completed work without retention of a percentage.
- E. All material and work covered by progress payments made shall, at the time of payment, become the sole property of the Authority, but shall not be construed as:
  - 1. Relieving the Contractor from the sole responsibility for all material and work upon which payments have been made or the restoration of any damaged work; or
  - 2. Waiving the right of the Authority to require the fulfillment of all the terms of the contract.

- F. The Authority shall pay the amount due the Contractor under this contract after:
1. Completion and acceptance of all work;
  2. Presentation of a properly executed voucher; and
  3. Presentation of releases of all claims, liens and encumbrances against the Authority arising by virtue of this contract. The release shall identify other claims, liens and encumbrances, in stated amounts, that the Contractor has specifically excepted from the operation of the release. A release may also be required of the assignee if the Contractor's claim to amounts payable under this contract have been assigned. Any assignment must be approved by the Contracting Officer.
- G. The Authority shall make payments within 30 calendar days after receipt of a proper invoice in the office designated to receive the invoice.
- H. The Contractor promises that it will pay its subcontractors within 10 days following receipt of payment from the Authority. The prime contractor also agrees to return any retainage withheld from subcontractors within 10 days after the subcontractor has satisfactorily completed its work. Any delay or postponement of payment may not take place without prior approval of the Authority. A finding of non-payment is a material breach of this Contract. The Authority may, at its option, increase allowable retainage or withhold progress payments unless and until the Contractor demonstrates timely payment of sums due subcontractors. Provided, however, that the presence of a "pay when paid" provision in a subcontract shall not preclude Authority inquiry into allegations of nonpayment. Provided, further, that the remedies above shall not be employed when the Contractor demonstrates that failure to pay results from a bona fide dispute with its subcontractor or supplier. The Contractor shall incorporate this provision into all subcontracts in excess of \$5,000 that results from this Contract.
- I. Contractor Submission Of W-9 Required Prior to Contract Award

As a prerequisite for contract award, the contractor shall complete all parts of the Internal Revenue Service ("IRS") Form W-9 (Request for Taxpayer Identification Number and Certification). Contract award will not be made until the completed W-9 has been received by the Authority. The W-9 form and instructions are available to contractors by accessing the IRS website at [www.irs.gov](http://www.irs.gov) and inserting the form number "W-9".

The W-9 information is requested so that we may determine the need to file IRS Form 1099 in connection with payments made by the Authority to the contractor. To assure accurate maintenance of your firm's status, the submission of the W-9 is required for each contract or purchase order executed by and between the Authority and its contractors. If the term of the contract exceeds one year, the Authority may request periodic resubmission of the W-9. If the contractor fails to submit the form by the deadline stated in the resubmission request, the Authority may refuse to pay invoices until the form has been submitted.

## 21 TAXES

The Authority is exempt from Virginia state and local sales and use taxes and from many Federal taxes. In addition, as a political subdivision of the Commonwealth of Virginia, the Authority may also be exempt from other state and local sales and use taxes.

Upon the Contractor's request, the Authority shall furnish additional evidence to establish exemption from any Federal, state, or local tax.

The Contractor remains solely responsible for payment of all other applicable Federal, state, and local taxes, whether now in force or hereafter enacted prior to Final Acceptance.

## **22 LIABILITY INSURANCE**

INDEMNITY – To the extent permitted by law, Seller shall indemnify Buyer and Buyer’s agents, employees and contractors against all claims, liabilities, damages and expenses, including attorney’s fees and disbursements, (i) for bodily injury, death or property damage arising out of any act of omission of Seller or its agents, employees or Sellers relating to Seller’s obligations hereunder; (ii) for trademark, copyright, or patent infringement relating to the goods or services furnished hereunder; or (iii) otherwise occurring as a result of Seller’s obligations hereunder.

INSURANCE – Seller shall maintain adequate liability, employer’s liability and workers’ compensation insurance to protect Buyer and Buyer’s agents, employees and contractors with respect to the indemnity contained in the paragraph above and any claims under workers’ compensation, safety and health and similar laws and regulations relating to the goods or services furnished hereunder. If requested, Seller shall furnish evidence of such insurance in form and substance satisfactory to Buyer.

## **23 PUBLICITY RELEASES**

Publicity releases in connection with this contract will not be made by the Contractor unless prior written approval is obtained from the Manager, Procurement and Contracts Department.

## **24 CONTRACT TERM**

The period of performance under this contract will be one year from the effective date of the contract with four, one-year options to be executed at the discretion of the Airports Authority.

## **25 OPTION TO EXTEND THE TERM OF THE CONTRACT**

The Authority may extend the term of this contract by written notice to the Contractor within 30 days of contract expiration. The Authority will give the Contractor a preliminary notice of its intent to extend at least 60 days prior to contract expiration. This preliminary notice shall not commit the Authority to an extension. If the Authority exercises an option, the extended contract shall be considered to include this option provision. The extended contract shall be at the rates specified in the Price Schedule. The total duration of this contract, including the exercise of any options under this provision, shall not exceed five years.

## **26 OPTION TO EXTEND SERVICES**

The Authority may require continued performance of any services within the limits and at the rates specified in the Price Schedule. This option provision may be exercised more than once, but the total extension hereunder shall not exceed six (6) months. The Contracting Officer may exercise the option by written notice to the Contractor within thirty (30) days of contract expiration.

## **27 AUDIT AND INSPECTION OF RECORDS**

The Contractor shall maintain records and the Contracting Officer shall, until the expiration of five years after final payment under this Contract have access to and the right to examine any pertinent books, documents, papers and records of the Contractor involving the formation of the contract, transactions related to the Contract, and information technology system records for the purpose of inspection, making audit, examination, excerpts and transcriptions. The Contractor further agrees to include in all its subcontracts hereunder a provision to the effect that the Contracting Officer shall until the expiration of five years after final payment under the Contract have similar access to and the right to examine any pertinent books, documents, papers



and records of the subcontractor(s) involving all aspects of the subcontract including formation. Upon request of the Contracting Officer, Contractor and its subcontractors shall, in a form acceptable to the Contracting Officer, submit a third party attestation report regarding its policies, controls, processes and security.

The Contracting Officer shall have all of the aforementioned rights for all types of contracts including fixed price contracts. The rights include without limitation the right to examine costs and information technology system records as they relate to this Contract. The Authority's rights hereunder are in addition to any other audit and inspection rights under the Contract. The Authority reserves these rights because cost and internal control information is frequently needed to investigate performance issues and whether it is in the Authority's interest to exercise other reserved rights under the contract. The Contracting Officer shall have the broad rights of audit and inspection including but not limited to, the right to examine books, records, documents and other evidence and accounting procedures and practices, sufficient to reflect properly all direct and indirect costs of whatever nature that have been incurred for the performance of this Contract. Such right of examination shall include inspection at all reasonable times of the Contractor's labor, materials, plant or such parts thereof, or other costs or revenues as may be expended or received as a part of the performance of the Contract.

When costs are a factor in any request for an equitable price adjustment pursuant to a remedy granting provision of the Contract, the Contractor shall maintain separate accounts by specific designation or other suitable accounting procedure of all incurred segregable, direct costs, less allocable credits. Failure to maintain such cost records is a bar to any claim, legal or equitable, for such costs.

## **28 CONSENT TO ASSIGNMENT**

The Contractor shall obtain the written consent of the Contracting Officer prior to any assignment of all or any part of this contract.

## **29 NOTIFICATION OF OWNERSHIP CHANGES**

The Contractor shall notify the Contracting Officer in writing when the Contractor becomes aware that a change in its ownership is certain to occur. The Contractor shall also include this provision in all subcontracts under this contract, requiring each subcontractor to notify the Contracting Officer in writing when the subcontractor becomes aware that a change in its ownership is certain to occur.

## **30 COMPLIANCE WITH EMPLOYMENT ELIGIBILITY VERIFICATION, FORM I-9**

The Contractor shall ensure that it is in compliance with the Immigration Reform and Control Act of 1986, Pub. L. 99-603 (8 U.S.C. 1324a) and the regulations issued there under, and that it will maintain compliance as long as any work is being performed under this contract with the Authority. The Contractor shall also ensure that its subcontractors are in compliance with the Immigration Reform and Control Act of 1986, Pub. L. 99-603 (8 U.S.C. 1324a) and the regulations issued there under, and that its subcontractors will maintain compliance as long as they are performing any work under this contract with the Authority.

## **31 AUTHORITY PROPERTY**

The Contractor shall have custodial management responsibility for all Authority-owned personal and real property assets (hereafter referred to as "property") that are provided during the contract term. This applies to all Authority property that is approved and provided by the Authority's Contracting Officer's Technical Representative (COTR), regardless of cost or whether the Contractor is authorized to directly purchase it or it is purchased by the Authority. Title to all Authority property provided to the Contractor shall remain with the Authority unless otherwise specified in the contract. Custodial management responsibility includes tracking assets, maintaining property records, preparing and submitting property documents, safeguarding assigned property, assisting with inventories, ensuring that assigned property is used only for official Authority purposes, and identifying property that is no longer needed and reporting it to the COTR.

Property assets provided to the Contractor shall be managed by the Contractor using the following identification methods approved by the COTR and their respective Authority Property Control Office:

1. An Authority issued bar code number for assets which are formally recorded by the respective Property Control Office
2. The manufacturer's assigned serial number
3. A unique recording number issued by the Contractor for tracking purposes and approved by the respective Authority Property Control Office when the manufacturer's assigned serial number is unavailable

Contractors shall ensure that they do not use any Authority property that has not been specifically authorized for their use by the COTR. If Contractors require additional Authority property, that requirement shall be submitted to the COTR in writing, including full justification prior to any use of such property.

An inventory of all property provided to the Contractor shall be conducted on the first and last day of the contract term by the Contractor's representative, COTR, and a representative from the respective Authority Property Control Office. An Authority property transfer form with a detailed property inventory listing will be used to transfer property at the beginning of the contract term. The inventory lists shall include the description of the property, bar code number (if assigned), serial number, acquisition cost, acquisition date, manufacturer, year manufactured, location, and user. If the acquisition cost and date for an item are unknown, the respective Authority Property Control Office will determine an estimated cost and date. If the COTR assigns additional property to the Contractor during the contract term or if property is returned to the Authority through the COTR by the Contractor, the respective Authority Property Control Office will be responsible for recording and maintaining an updated property inventory listing for Authority property that is bar coded. The Contractor will be responsible for recording and maintaining an updated property inventory listing for all non-bar coded Authority property. The COTR will be responsible for informing their respective Authority Property Control Office whenever property is issued or returned by the Contractor, including any changes that affect the property inventory records.

The Contractor accepts the provided property in "as is" condition. The COTR and/or the respective Authority Property Control Office may conduct scheduled or unscheduled property inventories during the contract term. The Contractor will perform at least annually a physical inventory of all Authority provided property. A corporate officer of the Contractor shall certify to the COTR and respective Authority Property Control Office that the property on the listings is still in the possession of the Contractor and has been used only in connection with this contract. The inventory listings should indicate a description of each asset, acquisition cost, acquisition date, manufacturer, year manufactured, its condition and location, the serial number, and the Authority asset bar code, if applicable. The existing Contractor's representative, new Contractor's representative, COTR, and a representative from the respective Property Control Office will conduct an inventory at the end of the contract period.

The COTR and the Property Control Office shall ensure that all property provided to the Contractor is returned to the Authority in the same condition as originally provided, with the exception of reasonable wear and tear, when it is no longer needed or at the end of the contract term. If the assigned property is not returned by the Contractor in the same condition as it was issued (with the exception of reasonable wear and tear) or has been lost, the Contractor will be liable for the loss or damage and will be required to reimburse the Authority for the cost to replace the property or to restore the property to its original condition, as determined by the Property Control Office and COTR.

**You will be advised by separate communications from the Contracting Officer's Technical Representative (COTR) of the necessary property asset management procedures and specific**

recording levels established for all property under your control during the remainder of your contract term.

### 32 GENERAL CIVIL RIGHTS PROVISIONS

The Contractor agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision binds the Contractor and subcontractors from the solicitation period through the completion of the contract. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

### 33 TITLE VI CLAUSES FOR COMPLIANCE WITH NONDISCRIMINATION REQUIREMENTS

During the performance of this contract, the Contractor, for itself, its assignees and successors in interest (hereinafter referred to as the Contractor) agrees as follows:

- A. Compliance with Regulations. The Contractor (hereinafter includes consultants) will comply with the **Title VI List of Pertinent Nondiscrimination Acts and Authorities**, as they may be amended from time to time, which are herein incorporated by reference and made a part of this Contract.
- B. Non-Discrimination. The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
- C. Solicitations for Subcontracts, Including Procurements of Materials and Equipment. In all solicitations either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the Contractor's obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.
- D. Information and Reports. The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Airports Authority or the Federal Aviation Administration (FAA) to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of the Contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the Airports Authority or the FAA as appropriate, and will set forth what efforts it has made to obtain the information.
- E. Sanctions for Noncompliance. In the event of the Contractor's noncompliance with the nondiscrimination provisions of this contract, the Airports Authority will impose such contract sanctions as it or the FAA may determine to be appropriate, including, but not limited to: Withholding payments to the Contractor under the contract until the Contractor complies; and/or cancelling, terminating, or suspending a contract, in whole or in part.
- F. Incorporation of Provisions. The Contractor will include the provisions of paragraphs A. through F. in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the Airports Authority or the Federal Aviation

Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor or supplier because of such direction, the Contractor may request the Airports Authority to enter into any litigation to protect the interests of the Airports Authority. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

### 34 TITLE VI LIST OF PERTINENT NONDISCRIMINATION AUTHORITIES

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest, agrees to comply with the following nondiscrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination In Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 *et seq.*).

**SECTION VIII - POLICIES ON EQUAL OPPORTUNITY, MINORITY AND WOMEN BUSINESS ENTERPRISE (MBE/WBE) PARTICIPATION, AND EMPLOYMENT OF VETERANS****01 EQUAL OPPORTUNITY**

No person or firm shall be discriminated against because of race, color, national origin, or sex in the award of Authority contracts. Further, the Contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract.

**02 MBE/WBE PARTICIPATION**

While there is no LDBE requirement associated with this solicitation, the Authority is committed to achieving significant voluntary participation in its contracting programs by business enterprises that are owned and operated by minorities and women (MBEs and WBEs) regardless of the size of the enterprise. All offerors are strongly encouraged to take active steps to maximize the participation of MBEs and WBEs in this contract.

**03 TECHNICAL ASSISTANCE**

The Authority will provide assistance to promote the participation of MBEs and WBEs in this contract, including the identification of MBEs and WBEs. To obtain assistance, interested parties are encouraged to contact the Authority's Department of Supplier Diversity at 703-417-8660, or at the following address: Metropolitan Washington Airports Authority, Department of Supplier Diversity, 1 Aviation Circle, Washington, DC 20001-6000.

**04 MONITORING OF MBE/WBE PARTICIPATION**

To monitor and evaluate MBE/WBE participation in its contracting programs, the Authority is collecting information on the voluntary efforts made by offerors in securing MBE/WBE participation for this contract. All offerors are encouraged to provide information relating to these efforts (Exhibit A) and return it with their offer.

When MBE/WBE participation has been obtained, all offerors are required to include this information on the Contract Participation Form (Exhibit D) and to attach to the Contract Participation Form the MBE's or WBE's letter of DBE certification from the Authority, or MBE/WBE/DBE certification from another agency. This letter verifies the firm's MBE/WBE status, and is used in this case for the Authority's monitoring of its programs for the purposes of monitoring expenditures to MBE/WBEs, all contractors are required to identify on the Invoice Attachment Form (Exhibit J1) expenditures to first tier subcontractors who are MBEs or WBEs. (Note: Exhibits D and J1 are available from the Business Information section of the Authority's website at <http://www.mwaa.com>)

The information requested above will be used to assist the Authority in monitoring and evaluating MBE/WBE participation and will not be used to determine to whom this contract will be awarded.

**05 EMPLOYMENT OF VETERANS**

The Authority has adopted a policy to encourage reasonable efforts whenever possible to offer employment to qualified veterans, including the disabled, by the Authority, its contractors and subcontractors.

**Voluntary Efforts to Obtain MBE/WBE Participation**

Please answer the following questions and return this questionnaire with attachments (i.e., ads, meeting attendance list, etc) to the Contracting Officer with your offer.

Project Name: \_\_\_\_\_  
 Solicitation Number: \_\_\_\_\_  
 Contractor: \_\_\_\_\_

Did your company:

YES NO

- |    |  |                                  |       |
|----|--|----------------------------------|-------|
| 1. | Attend any pre-proposal meetings that were scheduled by the Authority? If YES, please attach list of meetings attended.  | _____                            | _____ |
| 2. | Advertise subcontracting opportunities in major circulation newspapers such as: a) the <u>Washington Post</u> , b) trade association press, c) minority and women oriented media? If YES, please attach copies of ads for a, b, c.                           | a) _____<br>b) _____<br>c) _____ | _____ |
| 3. | Provide timely written notice to specific MBEs/WBEs that their interest in the contract is being solicited? If YES, please attach a sample of such notification and list MBEs/WBEs contacted on page 2.  | _____                            | _____ |
| 4. | Follow-up initial solicitations of interest by personally contacting MBEs/WBEs? If YES, please list those MBEs/WBEs contacted on page 2.   | _____                            | _____ |
| 5. | Select the portions of the contract to be performed by MBEs/WBEs in a manner that will increase the likelihood of MBE/WBE participation? If YES, please attach a list of those portions of the contract selected for MBE/WBE participation.                  | _____                            | _____ |
| 6. | Provide interested MBEs/WBEs with timely and thorough information about the plans, specifications and technical requirements of the contract? If YES, please list the MBEs/WBEs provided with such information on page 2.                                    | _____                            | _____ |
| 7. | Negotiate in good faith with interested MBEs/WBEs, and not reject MBEs/WBEs as unqualified without sound reasons based on a thorough investigation of their capabilities? If YES, list MBEs/WBEs with whom good faith negotiations were conducted on page 2. | _____                            | _____ |
| 8. | Assist interested MBEs/WBEs in obtaining bonding and/or insurance? If YES, list MBEs/WBEs assisted on page 2.  | _____                            | _____ |



## **SECTION IX - LOCAL DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION REQUIREMENTS**

### **01 LDBE PARTICIPATION**

There is no Local Disadvantaged Business Enterprise (LDBE) participation requirement associated with this solicitation. However, there are reporting requirements to be met for purposes of tracking all subcontractor participation in Airports Authority projects.

A LDBE is defined as a small business concern which is organized for profit and which is located within a 100-mile radius of Washington, D.C.'s zero mile marker. Those business entities located within counties that fall partially within the aforementioned boundary would also be eligible to participate in the Authority's LDBE program. "Located" means that, as of the date of the contract solicitation, a business entity has an established office or place of business within a city, county, town, or political jurisdiction within the 100-mile radius referenced above. Evidence of whether a business is "located" within the region includes, but is not limited to: an address that is not a Post Office Box; employees at that address; business license, payment of taxes; previous performance of work similar to work to be performed under the contract, or related work; and other indicia. A "disadvantaged business" is defined as a firm which is not dominant in its field, and which meets the Authority's small business size standard(s) for this solicitation. The receipts of all affiliates shall be counted in determining the size of the business. Please direct any questions concerning LDBE status to the Authority's Department of Supplier Diversity at 703-417-8660.

### **02 MONITORING OF LDBE PARTICIPATION**

- A. The Authority routinely verifies LDBE participation and may contact you and your subcontractors after award to verify contract and payment amounts to ensure that the Authority's reporting is accurate.
- B. All offerors (including those who are Authority certified LDBEs) shall submit a Contract Participation Form (Exhibit D) with their offers. Exhibit D is to list the prime contractor and all first tier subcontractors that are participating in the contract and to provide all information required by the Exhibit. This form must be signed and dated by the offeror. Offerors are also asked to identify whether or not any LDBE firms listed on the Exhibit D are also MBEs and WBEs.
1. Failure to Submit Exhibit D.  
  
Failure to submit Contract Participation Form (Exhibit D) by the deadline specified by the Contracting Officer may result in rejection of the offer.
  2. By accepting this contract, the Contractor agrees to the following requirements:
    - a. The Contractor shall submit a revised Contract Participation Form (Exhibit D) which reflects changes in the subcontractor participation to the contract within five (5) days of changes in participation for LDBE certified subcontractors, and on a quarterly basis for changes in participation for non-LDBE subcontractors. A revised Exhibit D, if required, shall be provided to the Contracting Officer concurrent with submission of the proposal for the changed work.
    - b. The Contractor shall submit a completed Invoice Attachment Form (Exhibit J1) with each invoice. The Contractor is responsible for the accuracy of all information reported.



## **EXHIBIT D**

### **CONTRACT PARTICIPATION FORM**

**The Contract Participation Form is available for download from the Metropolitan Washington Airports Authority's website in Microsoft Excel format at:**

**<http://www.mwaa.com/business/contracting-manuals-forms-and-other-resources>**

## METROPOLITAN WASHINGTON AIRPORTS AUTHORITY INVOICE ATTACHMENT FORM – ZERO LD BE

Name Of Prime Contractor \_\_\_\_\_  
 Contract Name & Number \_\_\_\_\_  
 Original Contract Amount \$ \_\_\_\_\_ Payments Received \$ \_\_\_\_\_  
 Current Contract Amount \$ \_\_\_\_\_ Retainage Withheld \$ \_\_\_\_\_  
 Invoice Period From \_\_\_\_\_ Through \_\_\_\_\_ Date Submitted \_\_\_\_\_

#	NAME OF SUBCONTRACTOR	BUSINESS ADDRESS (CITY, STATE, ZIP)	DESCRIPTION OF WORK	* LD BE	M BE	W BE	O T H E R	MONTHLY CONTRACT INFORMATION				% C O M P L E T E	% LD BE
								ORIGINAL SUBCONTRACT AMOUNT	CURRENT SUBCONTRACT AMOUNT	TOTAL PAYMENTS TO DATE	AMOUNT THIS INVOICE		
1													
2													
3													
4													
5													
6													
7													
8													
9													
10													
11													
12													
13													
14													
15													
16													
17													
18													
19													
20													
<b>SUBCONTRACTOR TOTALS</b>													
<b>PRIME CONTRACTOR TOTAL</b>													
<b>TOTAL THIS INVOICE</b>													

\* PUT AN "X" IN THIS COLUMN ONLY IF SUBCONTRACTOR IS AN AUTHORITY CERTIFIED LD BE.

I certify that the information furnished above is correct to the best of my knowledge and represents the current status of the firm's (Prime Contractor) subcontract(s) with the listed firms (Subcontractors) for the designated period covered by this report.

Signed: \_\_\_\_\_ Title \_\_\_\_\_ Date \_\_\_\_\_

**This form must be attached to all Invoices submitted by the Prime Contractor.**

SECTION X - ATTACHMENT

**ATTACHMENTS 01**  
**INSURANCE AFFIDAVIT**

## INSURANCE AFFIDAVIT

## TO BE EXECUTED BY OFFEROR AND AGENT(S) AND SUBMITTED WITH OFFER

Solicitation Number: \_\_\_\_\_

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

**To be completed by the Offeror:**

I confirm that, if awarded the Contract, I will comply with all of the insurance requirements listed in the Contract Provisions section of the above referenced solicitation, and said insurance shall be provided without change to the prices offered. I also acknowledge that any questions concerning these requirements, and requests for exceptions, must be submitted by the due date for questions stated in the solicitation.

\_\_\_\_\_  
Name of Offeror\_\_\_\_\_  
Offeror's Authorized Agent (please print):\_\_\_\_\_  
Offeror's Authorized Agent's Signature\_\_\_\_\_  
Date**To be completed by Offeror's insurance provider**

(use multiple forms if more than one provider)

I confirm that, if awarded the Contract, the OFFERING Firm (Offeror) stated above either has insurance coverage or can obtain coverage in compliance with the requirements of the above referenced solicitation.

\_\_\_\_\_  
Name of Insurance Agency\_\_\_\_\_  
Insurance Agent's Name (please print):\_\_\_\_\_  
Insurance Agent's Signature\_\_\_\_\_  
Date

**ATTACHMENT 02**

**AIRPORT ORDERS & INSTRUCTIONS  
(Incorporated by Reference)**

**Ronald Reagan Washington National Airport**

<http://www.mwaa.com/business/orders-and-instructions-dca>

**Washington Dulles International Airport**

<http://www.mwaa.com/business/orders-and-instructions-iad>