



REQUEST FOR PROPOSALS (RFP) # 2018-01

LEGAL SERVICES

JANUARY 8, 2018

GARY PUBLIC TRANSPORTATION CORPORATION  
100 W. 4<sup>TH</sup> AVENUE, THIRD FLOOR  
GARY, IN 46402

PHONES:  
(219) 884-6100 EXT. 107  
FAX: (219) 884-3003

# TABLE OF CONTENTS

PROCUREMENT SCHEDULE .....	3
REQUEST FOR PROPOSALS ANNOUNCEMENT .....	4
INTRODUCTION, GENERAL INFORMATION .....	5
SOLICITATION GENERAL INFORMATION .....	5
CONTRACT INCORPORATION AND REQUIRED CERTIFICATIONS .....	5
OVERVIEW OF GPTC .....	5
SCOPE OF WORK, SPECIFICATIONS & REQUIREMENTS .....	7
TERM OF ENGAGEMENT .....	7
VENDOR INSTURCTIONS .....	7
ADDITIONAL INFORMATION .....	8
PROPOSAL EVALUATION CRITERIA .....	9
PRICE AND OTHER FACTORS .....	9
FEDERAL PARTICIPATION .....	9
RESERVED RIGHT .....	9
INDEPENDENT CONTRACTOR .....	10
TAXES .....	10
WITHDRAWING PROPOSALS .....	10
PROPOSAL AND CONTRACT PROCEDURES .....	10
DBE GOAL .....	10
PUBLIC DISCLOSURE .....	10
COMPLIANCE WITH REGULATIONS AND GENERAL REQUIREMENTS .....	10
FEDERAL REGULATIONS .....	10
REQUIRED SUBMISSIONS .....	10
FAILURE TO SUPPLY .....	11
NOTARY SEALS .....	11
PRICE PROPOSAL .....	12
ACKNOWLEDGEMENT OF AMENDMENT .....	13
BID CHECKLIST .....	14
DBE COMMITMENT FORM .....	15
CERTIFICATE OF PROCUREMENT INTEGRITY .....	16
CERTIFICATION REGARDING LOBBYING .....	17
PROPOSAL OFFER .....	<b>Error! Bookmark not defined.</b>
CERTIFICATION REGARDING DEBARMENT .....	20
AFFIDAVIT OF NON-COLLUSION .....	21
DOT ASSISTED CONTRACTS .....	23
BID, OFFER OR PROPOSAL .....	24
BUY AMERICA .....	26
RESPONSIBILITY QUESTIONNAIRE .....	28

**PROCUREMENT SCHEDULE**

**GPTC RFP # 2018-01**

**LEGAL SERVICES**

**ADVERTISEMENT**

**January 8, 2018**

**RFP DUE DATE**

**12:00 NOON Local Time**

**January 22, 2018**

**CONTRACT AWARD**

**To Be Determined**

GARY PUBLIC TRANSPORTATION CORPORATION

**REQUEST FOR PROPOSALS - GPTC RFP #2018-01**

The Gary Public Transportation Corporation (GPTC) is seeking proposals for the following:

**LEGAL SERVICES**

Copies of the Request for Proposals (RFP) solicitation package can be obtained at the GPTC Corporate Office located at 100 West 4th Avenue, Third Floor, Gary, Indiana, 46402, between the hours of 9:00 A.M. and 4:00 P.M., Monday thru Friday, or via the Internet at [www.gptcbus.com](http://www.gptcbus.com).

For details, contact Denise L. Allen, Procurement Agent at (219) 884-6100 Ext. 107 or by email at [procurementagent@gptcbus.com](mailto:procurementagent@gptcbus.com).

Contracts resulting from this RFP are subject to all applicable equal opportunity laws, Disadvantaged Business Enterprise (DBE) regulations and affirmative action requirements of the Federal Transit Administration (FTA), and GPTC. Information regarding these and other FTA and GPTC requirements is on file at the GPTC Corporate Office.

Proposals will be accepted via U. S. mail or hand-delivery only up to 12:00 P.M. local time on Monday, January 22, 2018 at 100 West 4th Avenue, Third Floor, Gary, Indiana 46402.

GPTC reserves the right to accept any RFP or any part or parts thereof or to reject any and all RFPs and request new submissions. All proposers are required to certify that they are not on the Comptroller General's List of Ineligible Contractors.

The Gary Public Transportation Corporation hereby notifies all proposers that in regard to any contract entered into pursuant to this Request for Proposal, advertisement or solicitation; Disadvantaged Business Enterprises will be afforded full opportunity to submit proposals in response and will not be subjected to discrimination on the basis of race, religion, color, sex, handicap, national origin or ancestry in consideration for an award.

Daryl E. Lampkins  
General Manager

## INTRODUCTION, GENERAL INFORMATION

### SOLICITATION GENERAL INFORMATION

Date of Issuance: January 8, 2018  
RFP Due Date: January 22, 2018, 12:00 P.M. local time  
Contract Award Date: To Be Determined  
Contracting Agency: Gary Public Transportation Corporation  
100 West 4th Avenue, Third Floor  
Gary, IN 46402

Any contract entered into is subject to the provisions of applicable local, state, federal laws and regulations, and required Federal contract clauses are FTA Circular 4220.1F.

### CONTRACT INCORPORATION AND REQUIRED CERTIFICATIONS

**Contractor should be aware that the contents of the successful proposal as well as the entire content of RFP #2018-01 and attachments will become a part of the subsequent contractual documents. Additionally, the contractor should be aware of the contents of the certifications and guidelines contained herein, that it will be required to execute as required by the Federal Transit Administration (FTA) and Gary Public Transportation Corporation. Failure of contractor to accept these obligations will result in the rejection of its proposal or cancellation of any award. The model clauses set forth in this proposal are adopted and expressly made part of this RFP, contract and agreement; and in construing such clauses, all references to the Recipient or government shall be referenced to all participating agencies and/or GPTC, and all references to the contractor shall refer to the party awarded any contract as a result of this procurement transaction.**

### OVERVIEW OF GPTC

The Gary Public Transportation Corporation, hereinafter GPTC, is a Municipal Corporation, within the City of Gary, Lake County, State of Indiana. The agency is governed by a seven member Board of Directors. Board members are appointed by the Mayor and Gary Common Council. GPTC has 75 employees. Its annual adopted operating and capital budget from tax dollars approximates \$11.3M. GPTC provides the public transportation services for the Gary area. GPTC is the designated recipient of funds from the Federal Transit Administration (FTA), an agency of the United States Department of Transportation. GPTC functions on an operational basis under the Rules and Regulations of the United States Department of Transportation through its Federal Transit Administration, applicable Indiana Codes, and the Ordinances and regulations established by the Gary Common Council.

GPTC is a party to a 13 (C) Labor Agreement with the Amalgamated Transit Union Local 517 covering all hourly employees. A collective bargaining agreement between GPTC and the ATU

Local 517 is in place until March 31, 2019.

The annual operating budget of \$7.5 million is supported by Federal Transit Administration Section 5307 capital finds, State of Indiana Public Mass Transit Funds, farebox revenue, dedicated local property tax, and other local sources.

GPTC Corporate Office is located on the third floor of the Adam Benjamin Intermodal Transit Center in downtown Gary, Indiana. GPTC manages the Center, which is owned by the Civil City of Gary, Indiana. GPTC directly operates both fixed route and complimentary paratransit services from its Operations and

Maintenance Facility located at 2101 West 35th Avenue in Gary, Indiana. For Calendar Year 2016, the annual fixed route revenue miles were 823,213 with 771,971 riders. Complimentary paratransit revenue miles were 81,549 with 14,390 riders.

**\*\*\*THIS SECTION INTENTIONALLY LEFT BLANK\*\*\***

## **SCOPE OF WORK, SPECIFICATIONS & REQUIREMENTS**

The attorney shall provide full and complete legal services for the Board of Directors and the staff of the Gary Public Transportation Corporation, if required.

The attorney will attend all meetings, regular and special, of the Board of Directors of the Gary Public Transportation Corporation.

The attorney shall report to the Board of Directors of the Gary Public Transportation Corporation.

## **TERM OF ENGAGEMENT**

The attorney shall provide services to the Gary Public Transportation Corporation on a two (2) years basis to be determined with a one (1) year option to be determined. This agreement may be terminated by either party upon ninety (90) days written notice to the other.

## **VENDOR INSTRUCTIONS**

Proposers are to furnish the following instructions to clarify conditions for work, development and presentation of offers, clarification of contents, review of concerns, and other pertinent information from which knowledge of preparing and offering a responsible and responsive offer may be developed. A failure to comply with the units of measure or other terms and conditions of the work shall be grounds to declare the offer as non-responsive.

Proposers are to address the following elements in their proposal:

- Experience in relation to the scope of legal services for GPTC.
- A list of three (3) to five (5) local or federal accounts served by your firm.
- Availability of staff to respond to GPTC Board of Directors and Staff
- Legal knowledge of Roberts Rules of Order and developing bylaws.
- Knowledge of Federal Transportation Administration (FTA) regulations.
- Must be in good standing with the Indiana Bar Association.
- Knowledge of federal, state and local laws.

## ADDITIONAL INFORMATION

***“The following items are listed as required. Failure to include the following in the proposal submission will cause the proposal to be ruled non-responsive.”***

- Executive Summary
- Background & Experience
- A clear and well-defined price offer
- Price for any requested option period/item(s)
- All forms and certifications contained in the GPTC solicitation package
- List of references [Firms of similar size and composition, at least five (5) firms]

**Proposers shall remit five (5) copies of their proposal.** One copy must contain all seals and original signatures; all others may contain photocopies of the seals and signatures. The original copy must be unbound. Proposal format is to be twelve (12) point Times New Roman font with one (1) inch borders on all sides. Proposers are to include a full electronic copy of their Proposal package (CD or flash drive) in a Microsoft compatible format (Microsoft Word, Excel, PDF, etc.)

Any alteration to the Federally Required Submission Forms contained in the RFP may be cause for the proposal to be declared as non-responsive.

For this RFP, all proposals must be submitted no later than 12:00 Noon local time on January 22, 2018 at the Corporate Office of GPTC located at 100 W. 4<sup>th</sup> Avenue, Gary, IN 46402.

Under no circumstance will any proposal be accepted later than the time or date detailed or at any other location than that specified. This restriction is absolute and includes failure of a private delivery service or the United States Postal Services to deliver documents in a timely or schedule manner. No response will be accepted that is not in the hard copy format. Electronic responses are not valid for this RFP solicitation. Proposals received after the due date and time will be returned un-opened. Proposals must be enclosed in a sealed package or envelop with the name of the proposer and labeled as followed:

Daryl E. Lampkins  
General Manager  
Gary Public Transportation Corporation  
100 West 4th Avenue - Third Floor  
Gary, Indiana 46402

RE: GPTC RFP 2018-01 –Legal Services

Oral interviews/demonstrations **may** be required. Expenses for such an interview will be the responsibility of the proposer.

GPTC is not responsible and will not accept any responsibility for the cost incurred by any vendor in the specific preparation or the associated activities aiding in the preparation of this proposal.

GPTC is not responsible to return to any vendor the proposal submitted to GPTC as an offer for this RFP.



**PROPOSAL EVALUATION CRITERIA**

GPTC shall appoint an evaluation team to evaluate the contents of each proposal in light of certain criteria. Each evaluator shall assign a numerical rating for each category based on the proposal submittals and references. All composites for each vendor by each evaluator shall be established.

Categories will be totaled for each vendor and the vendor with the highest rating average will become the vendor of choice of the committee, except if there is an over-riding cause acceptable to the committee and Corporation Counsel as a whole to set aside the rand and proceed to the next highest rated vendor. The GPTC Board of Director(s) will consider the evaluation committee recommendation and make the final award.

Based on the Statement of Work and Vendor Instructions, the evaluation rating scale for proposals will be as follows:

<b>Factor</b>	<b>Description</b>	<b>Points</b>
1.	Experience in relation to the scope of legal services for GPTC.	10
2.	A list of three (3) to five (5) local or federal accounts served by your firm.	10
3.	Familiar with review of procurement documents	10
4.	Experience with transit agencies	10
5.	Legal knowledge of Roberts Rules of Order and developing bylaws	10
6.	Knowledge of federal, state and local laws and regulations	10
7.	Availability of staff to respond to GPTC Board of Directors and Staff	20
8.	Price Proposal	20
Bonus	Disadvantaged Business Enterprise (DBE)	5
Total		105

**PRICE AND OTHER FACTORS**

An award will be made to the responsible and responsive offeror whose proposal is most advantageous to GPTC’s program with price and other factors considered.

**FEDERAL PARTICIPATION**

GPTC is a recipient of Federal funding through the Federal Transit Administration (FTA) of the United States Department of Transportation. GPTC and its contractors must comply will all applicable federal statutes, regulations, executive orders, FTA circulars, and other federal administrative requirements in carrying out a project supported by FTA grants.

**RESERVED RIGHT**

GPTC reserves the right to withdraw this solicitation at any time in the process prior to contracting upon notification to all vendors in receipt of the solicitation documents by fax or letter to their last known business address. If such action is taken by GPTC, no vendor will have claim for recompense.

## **INDEPENDENT CONTRACTOR**

The successful vendor shall be considered, and shall accept status as being that of, an independent contractor to GPTC, and shall recognize that they are not an employee or officer of the Corporation.

## **TAXES**

GPTC is tax exempt from Federal and State excise, use, and sales taxes. As such, taxes shall not be included in proposal prices. GPTC shall furnish the necessary tax exemption certificates.

## **WITHDRAWING PROPOSALS**

After proposals are opened by GPTC, the proposer may not withdraw proposals one hundred twenty (120) days. However, prior to the date/time set for the proposal opening, proposals may be modified.

## **PROPOSAL AND CONTRACT PROCEDURES**

GPTC reserves the right, when necessary, to postpone the times at which proposals are scheduled to be received and opened, and to amend the Solicitation statement of work. Prompt notification of such postponement or amendment shall be given by GPTC to all prospective proposers who have requested or received the solicitation documents.

## **DBE GOAL**

The GPTC overall goal for FY2018-2020 is 2.95% of Federal financial assistance, which will be expended in Department of Transportation (DOT) – assisted contracts exclusive of Federal Transit Administration (FTA) funds to be used for the purchase of transit vehicles.

## **PUBLIC DISCLOSURE**

All information contained in the proposal may be subject to public inspection.

## **COMPLIANCE WITH REGULATIONS AND GENERAL REQUIREMENTS**

### **FEDERAL REGULATIONS**

Federal Procurement Regulations establish certain submission be required from any third party contract GPTC enters into with any vendor.

In order that GPTC may be compliant with the Federal Requirements of FTA Circular C 4220.1F, each vendor is required to complete and submit as a part of the offer package completed certifications as defined in this section.

### **REQUIRED SUBMISSIONS**

The following pages of certifications must be completed and returned with your proposal. Some portion of these required certifications may/will not be applicable to the contents of the statement of work that is attached to and made a part of this RFP. However, the Proposal submitted must contain completed, signed, and sealed (if required) documents.

**FAILURE TO SUPPLY**

Failure to supply the required certifications shall result in the determination the Proposal is “Non-Responsive.”

**NOTARY SEALS**

Any certification requiring a Notary Public Seal, must be sealed in the package marked original, and may be copied in the subsequent number of Proposal package required in Additional Information.

**\*\*\*THIS SECTION INTENTIONALLY LEFT BLANK\*\***

PRICE PROPOSAL  
LEGAL SERVICES

TWO (2) YEAR BASE TERM (DATES TO BE DETERMINED)

CATERGORY	HOURLY RATE	MONTHLY FEE
LEGAL SERVICES		
RETAINER FEES		

ONE (1) YEAR OPTION (DATES TO BE DETERMINED)

CATERGORY	HOURLY RATE	MONTHLY FEE
LEGAL SERVICES		
RETAINER FEES		

COMPENSATION FOR SERVICES:

Monthly fees will be deducted from any monthly retainer fees.

Compensation shall be paid within thirty (30) days of invoice date.



**PROPOSAL CHECKLIST GPTC RFP # 2018-01**

*(Must be returned with your proposal)*

Sealed offers will be received until the date and time listed. All offers must be received at the office of the Procurement Manager. All offers are subject to public opening and date and time indicated for submittal.

N/A % Bid Bond or certified check required with bid.

N/A % Performance Bond or Letter of Credit required at contract award.

N/A % Payment Bond or Letter of Credit required at contract award.

**Bid Data Check List**

Did you read and understand the General Specifications? Yes\_\_ No\_\_ Initials\_\_\_\_\_

Did you read and understand the Scope of Work? Yes\_\_ No\_\_ Initials\_\_\_\_\_

Are there any exceptions to the instructions as described? Yes\_\_ No\_\_ Initials\_\_\_\_\_

If yes, explain: \_\_\_\_\_  
\_\_\_\_\_

**Certificate Item Required to Be Returned**

- Acknowledgement of Amendments \_\_\_\_\_
- Bid Check List \_\_\_\_\_
- DBE Commitment Form \_\_\_\_\_
- Certificate of Procurement Integrity \_\_\_\_\_
- Certificate of Restriction on Lobbying \_\_\_\_\_
- Offer (correct number of copies, and signatures) \_\_\_\_\_
- Certificate Regarding Debarment \_\_\_\_\_
- Affidavit of Non-collusion \_\_\_\_\_
- Contract Pricing Offer Form (Bid Form 95) \_\_\_\_\_
- DOT Assisted Contracts Bidders List Certification \_\_\_\_\_
- Bid Contract Form \_\_\_\_\_
- Buy America Certification \_\_\_\_\_
- Responsibility Questionnaire \_\_\_\_\_
- Organizational Conflict of Interest Narrative \_\_\_\_\_

It is the responsibility of the bidders to notify Gary PTC if the contents of the solicitation do not match the description found in the Table of Contents included in the solicitation. Failure of the vendor to complete all forms and sign at all signature blocks will disqualify the offer from consideration.

**NO OFFER SHALL BE ACCEPTED OR CONSIDERED THAT IS RECEIVED LATER THAN THE TIME AND DATE STATED AS THE SUBMISSION REQUIREMENT.**

Time Given in the solicitation is the current time observed by the Consolidated City of Gary, Indiana.

**DBE COMMITMENT FORM**  
(To be returned with your proposal)

- A. \_\_\_\_\_ The undersigned firm certifies that it is a DBE contractor (mark N/A for non-applicable answers) \_\_\_\_\_ %
- A.1 For DBE, specify percentage of minority ownership \_\_\_\_\_ %
- A.2 For DBE, specify percentage of women ownership \_\_\_\_\_ %
- B. \_\_\_\_\_ The undersigned certifies that they are a joint venture in which the following DBE firm is a joint venture partner (mark N/A for non-applicable answers)
- B.1 The DBE firm shall have \_\_\_\_\_ % participation of employees, and shall have \_\_\_\_\_ % participation in cost in this project
- B.2 Specify the percentage of minority/women ownership in the DBE firm \_\_\_\_\_ %
- C. \_\_\_\_\_ The undersigned commits \_\_\_\_\_ % of the total bid price as a subcontract to minority business enterprise participation. The DBE firms, which are proposed as subcontractors, are the following:  
Name, Address, and type of work performed by firm:
1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
- D. \_\_\_\_\_ The undersigned commits \_\_\_\_\_ % of the total bid price as a subcontract to: women business enterprise participation. The DBE firms, which are proposed as subcontractors, are the following  
Name, Address, and type of work performed by firm:
1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
- Are there DBE firms employed by your company for services that are not directly responsible for the manufacture, supply, or service that your company provides, such as: printing, cleaning, delivery, etc. If applicable, please list the names, address, and type of work performed by the firms:
- E. \_\_\_\_\_
1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
- F. \_\_\_\_\_ Complete (1) and (2) below if participation goals of 10% cannot be met.
- F.1 My company cannot meet the participation goals for the following reasons: \_\_\_\_\_
- F.2 We have taken the following steps in an attempt to comply with these participation goals: \_\_\_\_\_

Firm Name: \_\_\_\_\_

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

By: (sign in ink) \_\_\_\_\_

**CERTIFICATE OF PROCUREMENT INTEGRITY**  
(Must be returned with your Proposal)

I, \_\_\_\_\_, am the officer or designated employee responsible for the preparation of this bid offer and hereby certify that to the best of my knowledge and belief, with the exception of any information described below on this certificate, have no information concerning a violation or possible violation of Section 27 (a), (b), (c), or (e) of the FPPA \* (41 USC 23) as implemented in the FAR, occurring during the conduct of this procurement.

As required by Subsection 27 (d) (1) (B) of the FPPA, I further certify that each officer, employee, agent, representative, and/or consultant of

\_\_\_\_\_  
*(Insert firm name)*

who has participated personally and substantially in the preparation or submission of this offer, has certified that he/she is familiar with, and complied with, the requirements of Subsection 27(a) concerning any violation or possible violation of the FPPA, pertaining to this document.

Violations or possible violations: (enter "NONE" if none exist)

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

\_\_\_\_\_  
Signature of Responsible Officer or Employee

\_\_\_\_\_  
Date

\_\_\_\_\_  
Typed name of Responsible Officer of Employee

This certification concerns a matter within the jurisdiction of an agency of the United States and making a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18, US. Code, Section 1001.

- Section 27 became effective July 16, 1989



**APPENDIX A, 49 CFR PART 20--CERTIFICATION REGARDING LOBBYING**

Certification for Contracts, Grants, Loans, and Cooperative Agreements

(To be submitted with each bid or offer exceeding \$100,000)

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

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form--LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, et seq.)]

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). My person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

[Note: Pursuant to 31 U.S.C. § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.]

The Contractor, \_\_\_\_\_, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. A 3801, et seq., apply to this certification and disclosure, if any.

\_\_\_\_\_  
Signature of Contractor's Authorized Official

\_\_\_\_\_  
Name and Title of Contractor's Authorized Official

\_\_\_\_\_  
Date

\_\_\_\_\_

**PROPOSAL OFFER**  
(Return with Proposal)

*COMPLETED BY THE VENDOR*

GPTC requires a responsive offer. Offers not fully complying with the specifications may be ruled non-responsive. Offers that qualify and of the terms and conditions as stipulated by GPTC may cause a response to be ruled non-responsive. Any additions, deletions, changes, or exceptions to the solicitation and/or addenda may cause the response to be ruled non-responsive. Any change to the required format of submission may cause a response to be ruled non-responsive. The inclusion of any cost, form of cost, or additional cost items not asked for in the solicitation may cause the response to be ruled non-responsive.

Please submit the items indicated on the Proposal Check List and any required manufacturer specification or safety data sheets with your proposal to assure you are providing a responsive submission.

When a Proposal has been accepted for an award through the GPTC Board of Directors approval and authorization, this Proposal form, and all specifications and addenda to offers incorporated herein, by specific statement or by reference, shall become the contract between the two parties, the vendor selected and the Gary Public Transportation Corporation.

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

\_\_\_\_\_  
Address

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

\_\_\_\_\_  
Agent, (Signature and Title)

Typed Name \_\_\_\_\_

Telephone \_\_\_\_\_ Date Signed \_\_\_\_\_

**Contract Number GPTC RFP # 2018-01**

**Completed by GPTC**

The foregoing offer to furnish labor, material(s), supplies, equipment, or service(s), to perform in accordance with the requirements contained within this solicitation, all relevant amendments and negotiated items, has been accepted by an award of the GPTC Board of Directors, and is signed to create the contract between GPTC and the above Vendor. Vendor signature(s) and return of this document in original form is acceptance and completion of the contract process.

BY: \_\_\_\_\_

Date \_\_\_\_\_

Daryl E. Lampkins, GPTC  
General Manager

## **Appendix B to Part 29 - Certification Regarding Debarment, Suspension, Ineligibility and**

### **Voluntary Exclusion Lower Tier Covered Transactions**

#### **Instructions for Certification**

1. By signing and submitting this bid, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this bid is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, bid, and voluntarily excluded, as used in this clause. Have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this bid is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this bid that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this bid that it will include this clause titled 'Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Lower Tier Covered Transaction,' without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Non-procurement Programs.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

**CERTIFICATION REGARDING DEBARMENT**  
(Must be returned with your Proposal)

To be submitted on all contracts reasonably anticipated to exceed \$25,000.00 in value. THE UNDERSIGNED PROPOSER/OFFER/SUBCONTRACTOR (“ATTESTER”) CERTIFIES, TO THE BEST OF ITS KNOWLEDGE AND BELIEF THAT:

The Attester and/or any of its principals or subcontractor:

Are not presently debarred, suspended, proposed for debarment, or declared ineligible for award of contracts by any Federal Agency

Have not for a three (3) year period proceeding 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, or attempting to obtain, or performing a public (Federal, State, or Local) contract or subcontract: violation of Federal or State antitrust status relating to the submission of offers, or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; and

Are not presently indicted for, or otherwise criminally or charged in any civil action by a government entity with commission of any of these offenses enumerated above.

The Attester has not, within a three (3) year period preceding this offer, had one (1) or more contracts terminated for default by any governmental agency.

“Principals”, for the purpose of this certification, means officers, directors, owners, partners, and persons having a primary management or supervisory responsibilities within a business entity.

This certification concerns a matter which may be within the jurisdiction of an agency of the United States and the making of false, fictitious, or fraudulent certification may render the maker subject to prosecution under Section 1001, USC.

The Attester shall immediately notify the Procurement Department at any time the Attester learns that its certification was erroneous when submitted or has become erroneous.

A certification in which any of the items detailed above 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 Attester’s responsibility. Failure of the Attester to furnish a certificate or provide such additional information as requested by Gary PTC may render the Attester non-responsive.

Nothing contained in the forgoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings. If it is later determined that the Attester knowingly rendered an erroneous certification, in addition to other remedies available to Gary PTC, the Authority may terminate the contract resulting from this solicitation for default.

If Attester is unable to certify to any of the statements in this certification, attach an explanation to this certification.

---

(Signature of Authorized Company Official)

---

Company Name TYPED

---

(Title of Official, Including Name, Typed)

**AFFIDAVIT OF NON-COLLUSION**

**THE UNDERSIGNED, HAVING SUBMITTED A BID, QUOTE, OR BID FOR**

\_\_\_\_\_ In accordance with notice given by the Procurement Office of the Gary Public Transportation Corporation and/or its Board of Directors for the purposes or support of the transit services in and for the Consolidated City of Gary, Indiana, for and behalf of himself, or themselves, first being duly sworn says:

That said bidder, quoter, or proposer has not directly or indirectly entered into any combination, collusion, undertaking, or agreement relative to price to be bid by any person, or to prevent any person, or persons, or company from submitting pricing; or to entice any bidder, quoter, or proposer to refrain from pricing for such supplies, merchandise, service, or contract, and that said bid so made is without reference or regard to any other bid or bids, and without agreement, understanding or combination, either directly or indirectly, with any person or persons, with reference to such bidding in any way or manner whatsoever.

\_\_\_\_\_  
Proposer (Firm)

\_\_\_\_\_  
Signature of Proposer or Firm

STATE of \_\_\_\_\_

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

SS: \_\_\_\_\_

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

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

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

\_\_\_\_\_  
Seal

Dated at \_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
Date

***Failure to properly Notarize and Return This Form Will In validate Your Proposal***

**NON-COLLUSION AFFIDAVIT**

STATE OF INDIANA

SS

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

The undersigned, being duly sworn on oath says, that he is the contracting party, or that he is the representative, agent, member, or officer of the contracting party, that he has not, nor has any other member, employee, representative, agent or officer of the firm, company, corporation or partnership represented by him, directly or indirectly, entered into or offered to enter into any combination, collusion or agreement to receive or pay, and that he has not received or paid, any sum of money or other consideration for the execution of the annexed contract other than that which appears upon the face of the contract.

Signature \_\_\_\_\_

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

Title \_\_\_\_\_

Company \_\_\_\_\_

Before me, a Notary Public in and for said County and State personally appeared, \_\_\_\_\_

who acknowledged the truth of the statements in the foregoing affidavit on this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_

		Signature of Notary Republic
County of Residence	Commission Expires Date	Printed or Typed Name of Notary Public

DOT ASSISTED CONTRACTS  
BIDDER'S LIST  
[49 CFR, Part 26]

49 CFR, Part 26 requires that all recipients of Federal Funds collect certain information from all bidders submitting responses to solicitations. To assist in the building of demographics for the area upon which reasonable and effective expectations of DBE/MDE opportunities may be based, all bidders are required to return this certificate with their offer. Any offer submitted that does not contain a completed copy of this form will be ruled as non-responsive and dropped from further consideration in the procurement process for the solicitation.

Firm Name: \_\_\_\_\_

Firm Address: \_\_\_\_\_

Firm Phone: (    ) \_\_\_\_\_ Firm Fax: (    ) \_\_\_\_\_

**General Classification of firm by quantity of employees**

\_\_\_\_\_ Less than 10    \_\_\_\_\_ 1-50    \_\_\_\_\_ 51-100    \_\_\_\_\_ 101 - 500  
\_\_\_\_\_ 501-1000    \_\_\_\_\_ 1001-5000    \_\_\_\_\_ More than 5000

**General Classification of Firm in Age of Existence**

\_\_\_\_\_ 0 years    \_\_\_\_\_ 6-19 years    \_\_\_\_\_ 11-50 years    \_\_\_\_\_ Over 50 years

**General Classification by Type**

\_\_\_\_\_ This firm is a Small Business    \_\_\_\_\_ This firm is a certified DBE  
\_\_\_\_\_ This firm is a certified WBE    \_\_\_\_\_ This firm is not one of the above.

**General Classification by Annual Gross Income**

\_\_\_\_\_ The approximate annual gross income for this firm is less than \$100,000  
\_\_\_\_\_ The approximate annual gross income for this firm is \$100,000- \$250,000  
\_\_\_\_\_ The approximate annual gross income for this firm is \$250,001 - \$500,000  
\_\_\_\_\_ The approximate annual gross income for this firm is \$500,001 - \$1M  
\_\_\_\_\_ The approximate annual gross income for this firm is \$1M - \$5M

I certify this information is accurate to the best of my knowledge.

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Date

**BID, OFFER OR PROPOSAL FOR SALE OR LEASE OF MATERIALS**

(Defined at I.C. 36-1-2-9.5)  
(Please type or print)

- 1. Government Unit \_\_\_\_\_
- 2. County \_\_\_\_\_
- 3. Bidder (Firm) \_\_\_\_\_  
    Address \_\_\_\_\_  
    City/County \_\_\_\_\_
- 4. Telephone Number \_\_\_\_\_
- 5. Agent of Bidder (if applicable) \_\_\_\_\_

Pursuant to notices given, the undersigned offers bid(s) to \_\_\_\_\_  
(Governmental Unit) in accordance with the following attachment(s) which specify the class or item number or description, quantity, unit price and total amount.

The contract will be awarded by classes or items, in accordance with specifications. Any changes or alterations in the items specified will render such bid void as to that class or item. Bidder promises that he has not offered nor received a less price than the price stated in his bid for the materials included in said bid. Bidder further agrees that he will not withdraw his bid from the office in which it is filed. A certified check or bond shall be filed with each bid if required, and liability for breach shall be enforceable upon the contract, the bond or certified check or both as the case may be.

\_\_\_\_\_  
Signature of Bidder of Agent

**BID OFFER OR PROPOSAL**

Class of Item	Quantity	Unit	Description	Unit Price	Amount



---

---

BID OF

(Contractor)

(Address)

FOR SALE OR  
LEASE OF MATERIALS

(Defined at I.C. 36-1-2-9.5)

FILED \_\_\_\_\_, 20 \_\_\_\_\_

---

---

THIS BID ACCEPTED FOR THE  
FOLLOWING CLASSES OR ITEMS

This \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

P.O. No. \_\_\_\_\_

Date \_\_\_\_\_

---

---

IF NO PART OF BID IS ACCEPTED, WRITE  
THE WORD "REJECTED" ACROSS FACE

**BUY AMERICA**

The contractor agrees to comply with 49 U.S.C. 5323(j) and 49 C.F.R. Part 661, which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 C.F.R. 661.7, and include final assembly in the United States for 15 passenger vans and 15 passenger wagons produced by Chrysler Corporation, and microcomputer equipment and software. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C) and 49 C.F.R. 661.11. Rolling stock must be assembled in the United States and have a 60 percent domestic content.

A bidder or offeror must submit to the FTA recipient the appropriate Buy America certification (below) with all bids or offers on FTA-funded contracts, except those subject to a general waiver. Bids or offers that are not accompanied by a completed Buy America certification must be rejected as nonresponsive. This requirement does not apply to lower tier subcontractors.

**Certification requirement for procurement of steel, iron, or manufactured products.**

*Certificate of Compliance with 49 U.S.C. 5323(j)(1)*

The bidder or offeror hereby certifies that it will meet the requirements of 49 U.S.C. 5323(j)(1) and the applicable regulations in 49 CFR Part 661.5.

Date \_\_\_\_\_

Signature \_\_\_\_\_

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

Title \_\_\_\_\_

*Certificate of Non-Compliance with 49 U.S.C. 5323(j)(1)*

The bidder or offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j)(1) and 49 C.F.R. 661.5, but it may qualify for an exception pursuant to 49 U.S.C. 5323(j)(2)(A), 5323(j)(2)(B), or 5323(j)(2)(D), and 49 C.F.R. 661.7.

Date \_\_\_\_\_

Signature \_\_\_\_\_

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

Title \_\_\_\_\_

**Certification requirement for procurement of buses, other rolling stock and associated equipment.**

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

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

Date \_\_\_\_\_

Signature \_\_\_\_\_

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

Title \_\_\_\_\_

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

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

Date \_\_\_\_\_

Signature \_\_\_\_\_

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

Title \_\_\_\_\_

## RESPONSIBILITY QUESTIONNAIRE

### Part I – Instructions

1. Please state "not applicable" for questions clearly not applicable to this solicitation. Do not omit any question. If any representation is not accurate and complete at the time Bidder/Proposer signs this Questionnaire, Bidder/Proposer must, as part of its Bid/Proposal, identify the provision and explain the reason in detail in the space provided below. If additional space is needed, add additional sheet(s) to this Questionnaire. If this space is left blank, Bidder/Proposer shall be deemed to have represented and warranted the accuracy and completeness of the representations on this Questionnaire.
2. All information must be legible.
3. The term "Bidder" includes the terms "Proposer" and "Vendor" also refers to the firm awarded the Contract. The term "Bid" includes the term "Proposal".
4. If during the performance of this Contract, either of the following occurs, Bidder shall promptly give notice in writing of the situation to Gary PTC, and therefore cooperate with Gary PTC's review and investigation of such information:
  - a. Bidder has reason to believe that any representation or answer to any question contained in this Questionnaire was not accurate or complete at the time this Questionnaire was signed;  
or
  - b. Events occur or circumstances change so that an answer to any question is no longer accurate or complete.
5. In Gary PTC's sole discretion, the following shall constitute grounds for Gary PTC to take remedial action up to and including termination of the Contract for convenience without payment for profit and overhead for work not performed if:
  - a. Bidder fails to notify the Gary PTC as required by "4" above:
  - b. Bidder fails to cooperate with Gary PTC's request for additional information as required by "4" above.
6. Gary PTC reserves the right to inquire further with respect to Bidder's responses; and Bidder consents to such further inquiry and agrees to furnish all relevant documents and information as requested by Gary PTC. Any response to this document prior or subsequent to Bidder's Proposal which is or may be construed as unfavorable to Bidder will not necessarily automatically result in a negative finding on the question of Bidder's responsibility or a decision to terminate the Contract if it is awarded to Bidder.

**PART II – IDENTITY OF PROPOSER**

Company Full Legal Name: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Legal Address: \_\_\_\_\_

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

E-mail Address: \_\_\_\_\_

Indicate all other names by which this organization has been know and the lengths of time know by each name. Please attach additional pages as needed.

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

Company Federal Taxpayer Identification Number: \_\_\_\_\_

Company DUNS Number: \_\_\_\_\_

Operating as one of the following forms of legal entity (Check whichever applies and fill in any appropriate blanks):

An individual or sole proprietorship \_\_\_\_\_

A general partnership \_\_\_\_\_

A limited partnership \_\_\_\_\_

A joint venture consisting of \_\_\_\_\_

and \_\_\_\_\_

List all joint ventures on a separate sheet if space is inadequate \_\_\_\_\_

A non-profit organization \_\_\_\_\_

A corporation organized or incorporated under the laws of the following state or country: \_\_\_\_\_

On the following date: \_\_\_\_\_

1. If the organization is a corporation, indicate the following”

Date of Incorporation: \_\_\_\_\_

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

President’s name \_\_\_\_\_

Vice-President’s name \_\_\_\_\_

Secretary’s name \_\_\_\_\_

2. Provide Certificate of Incorporation

3. Years in business under current name \_\_\_\_\_

4. If the organization is an individual or partnership, answer the following:

Date of Organization \_\_\_\_\_

Name and address of all partners (state whether general or limited partnership)  
Please attach additional pages as needed.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

5. If the organization is other than a corporation or partnership, describe the organization and name its principals. Please attach additional pages as needed:

---

---

---

---

6. List the States in which your organization is legally qualified to do business. List states in which partnership or trade name is filed. Please attach additional pages as needed.

---

---

---

---

---

7. Trade References: List names, addresses and telephone numbers of three firms with whom your organization has regular business dealings. Please attach additional pages as needed.

Business Name	Address	Contact	Telephone Number

8. List below the names, business addresses, telephone numbers and contact person(s) of three Companies, Firms or Organizations similar in size to Gary PTC for whom you have provided work/services similar to those sought through this Request for Proposal.

Business Name	Address	Contact	Telephone Number

9. Bank References: List names, addresses and telephone numbers of the financial institutions used by your organization. Please attach additional pages as needed:

---

---

---

---

10. Has your organization ever failed to complete any work awarded to you? If so, note when, where and attach a separate sheet of explanation to this form.

---

---

---

11. Within the last five years, has any officer or partner of your organization ever been an officer or partner of another organization where it failed to complete a contract? If so, note whom, when and where and attach a separate sheet of explanation to this form.

---

---

---



12. Attach a corporate financial statement for the most recent year. If a financial statement is not available, please provide other suitable documentation of the financial stability of the organization. It is imperative that the company demonstrates it has the financial capacity to carry out the overall performance of this project.

Name of the firm preparing the financial statement and date of preparation:

---

13. Is this financial statement for the identical organization named on the first page of this questionnaire? If not, explain the relationship and financial responsibility of the organization whose financial statement is provided (e.g., parent, subsidiary). Will this organization act as a guarantor of the contract for management?

---

---

---

---

---

I certify that the attached financial statements for this Proposal properly reflect the financial position of the company for the periods indicated on the financials.

Title: \_\_\_\_\_

Name \_\_\_\_\_

Date \_\_\_\_\_

**PART III - TECHNICAL**

1. List each contract which, during the last two years, the person/entity contracting with you: i) terminated for default; ii) sued to compel performance; iii) sued to recover damages, including, without limitation, upon alleged breach of contract, misfeasance, error or omission or other alleged failure on your part to perform as required by your contract; or iv) called upon a surety to perform the work.

---

---

---

---

2. During the past three years, has the Proposer's firm ever been a party to a bankruptcy or reorganization proceeding?

YES \_\_\_\_\_ NO \_\_\_\_\_ If answer is "YES," explain below:

---

---

---

---

3. If any professional or other licenses, permits, or certifications are required to perform the work/services called for by this solicitation, list the license, permit, or certification that the Proposer or Proposer's employees or agents possess. If none, state "None".

---

---

---

---

4. Describe whether any present or anticipated commitments and/or contractual obligations might have an influence on the capabilities of the Proposer to perform the work called for by this Contract. Any apparent conflicts as between the requirements/commitments for this Contract with respect to the use of Proposer's resources, such as management or technical expertise or financing, should be explained. If none, state "None"

---

---

---

---

---

5. Have any of the Proposer's officers, partners, owners, managers or employees had any project related licenses, permits or certifications revoked or suspended in the past three years?

YES \_\_\_\_\_ NO \_\_\_\_\_ If answer is "YES," explain below:

---

---

---

---

6. List the names, titles and attach resumes or brief descriptions of the related industry experience for all management personnel assigned to this project. At a minimum this will include the primary Manger assigned to this project that will have the primary responsibility for this contract. This should clearly reflect the record of skill and experience of your proposed project management team.

---

---

---

---

**PART IV – VERIFICATION AND ACKNOWLEDGEMENT**

**STATE OF**

\_\_\_\_\_ )

**)SS:**

**COUNTY OF** \_\_\_\_\_ )

On the \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_, before me personally came and appeared \_\_\_\_\_, by me know to be said person, who swore under oath as follows:

1. He/She is \_\_\_\_\_ of \_\_\_\_\_  
(Print Title) (Print Name of Firm)
2. He/she is duly authorizes to sign this Questionnaire on behalf of said firm and duly signed this document pursuant to said authorization.
3. The answers to the questions set forth in this Questionnaire are true, accurate and complete.
4. He/she acknowledged and understands that the Questionnaire includes provisions, which are deemed included in the Contract if awarded to the firm.

Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
(Notary Public)

## **OTHER FEDERAL REQUIREMENTS**

The following paragraphs may or may not be part of the enforcement for this procurement. Vendor is responsible to review and apply applicable portions.

### **Background**

Gary Public Transportation Corporation (Gary PTC) is funded, in part, by the Federal Transit Administration (FTA) of the United States of America. Various Federal Statutes and Regulations govern the purchasing procedures of Gary PTC. Basic requirements and the associated required documents and responsibilities will be found in **OMB Circular A-102, and in FTA Circular C-4220.1F**. The Statutes, Regulations, and Circulars governing the procurements by Gary PTC require among other things that purchases be made according to approved plans and specifications, which will become part of the contractual documents between Gary PTC and the successful vendor(s).

Gary PTC solicits responses for construction, equipment, and/or services according to the following General Specifications and/or Technical Specifications that generally apply to the product or service requested. The Technical Specifications, and any applicable Special services, will be found in the Scope of Services (Section 1) of this RFP.

### **Bid and Contract Procedure**

Gary PTC reserves the right, when necessary, to postpone the times at which bids are scheduled to be received and opened, and to amend the Solicitation statement of work. Prompt notification of such postponement or amendment shall be given by Gary PTC to all prospective bidders who have requested or received the solicitation documents.

If the work is amended, any responder from whom a bid had been received prior to the giving notice of amendment will be entitled to withdraw the submission and resubmit their response in conformance with the changed work.

Where manufacturers, brands, names, model numbers, processes, or other specific items are mentioned in the Scope of Services (Section 1), the words, "Or approved equal" shall be deemed to follow. All items must be furnished as specified unless a responder requests and receives permission to substitute an approved equal. Each request must be made in writing and received at the Gary PTC Procurement Department offices during business hours, not less than five (5) working days before the date upon which the submissions are to be opened. Each request is to be accompanied by such samples, technical data, test results, or other information as necessary to demonstrate that the substitute requested is equal to or better than the item that is specified in the Statement of work. Gary PTC will give prompt written notice of its response to each submitted request. The decision of Gary PTC as to the acceptability or non-acceptability of the requested substitution will be at its sole discretion and shall be final and non-arbitrable.

Upon receipt, all submissions shall be date and time stamped. Any submittal received after the time and date specified in this offer, or any amendment thereto, will be returned unopened.

No late submission will be considered in the selection process regardless of reason for lateness, including delays by the United States Postal Service.

All submissions received on time will be publicly recorded and witnessed. No bid may be withdrawn after the opening. Submitted terms and conditions must be guaranteed for a term of not less than thirty (30) days, or until Board action (if required) whichever is longer. Gary PTC reserves the right to reject any and all submissions at any time in the procurement process prior to final contract execution. After bids are opened and read, Gary PTC will examine each bid to determine if the responder was responsive to the RFP, and if the proposer is a responsible vendor and able to fulfill any potential award.

**Definition of Responsive:**

All RFP certifications and form blanks must be filled in, all offered goods and/or services must conform with the Statement of Work requested, unless an alternate but equal request has been submitted for approval; and all information required in the request for submissions documents must have been completed and submitted in a sealed envelope to conform with the definition of the term, responsiveness.

Any alteration, erasure, or interlineations of the document may cause the submission to be determined as non-responsive. However, Gary PTC reserves the right to accept any offer or to reject any and all offers, or to waive any defect or irregularity found in any offer.

**Definition of Responsible:**

Gary PTC may consider among other factors the Contractor's record of integrity, experience, and past performance record with Gary PTC, the financial status, the capability to perform the project as defined, or whether the bidder is in default on any contract or other obligation to Gary PTC, the consolidated City of Gary, the State of Indiana, or the Federal government. In arriving at a determination, Gary PTC may institute a pre-award survey on any or all respondents. Bidders will be required to cooperate with the pre-award survey team if one is used. Failure to do so may result in the determination of the vendor as being a non-responsive vendor.

A proposer shall not add to, delete from, or change any specification, term or condition within the solicitation package unless authorized to do so by an amendment issued by Gary PTC to the RFP. In addition, bidders must confine their response to the spaces provided on any furnished submittal form or Cost Form, except where the Form itself may make an exception to the contrary.

Alternate bids may be submitted but shall be submitted in a format that is easily understood, shows conformance with the contents of the Statement of Work, and contains full explanation as to the effectiveness of the alternate proposed in satisfying the intent of the solicitation.

All prices must be furnished to match the requested units or quantities as shown on the Submission Pricing Sheets. Where indicated the total extended price should be shown. In case of a discrepancy between the unit price and the extended price, the unit price shall prevail. No changes will be allowed to the point of placement of decimal points and zeroes. All submissions will be for the exact quantities and/or breakdowns reflected in the statements and conditions of the RFP.

## **Federal Participation**

The resulting contract for the procurement of the requirements specified herein, is subject to the applicable terms and conditions of the Master Agreement for Financial Assistance between Gary PTC and the FTA. Review and approval by FTA is a condition required prior to the award of the contract to a sole response or any award to other than the apparent low offer. Any responder to which such an award is proposed by Gary PTC shall be notified in writing.

No Government Obligation to Third Parties: Federal Participation does not infer or obligate the Federal Government in any form or fashion to any third party contractor. The purchaser and the contractor acknowledge and agree that notwithstanding any concurrence by the Federal Government in, or approval of the solicitation or award of, the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

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

**Federal Changes:** The purchaser and the contractor agree that they will be compliant with the requirements as found in **49 CFR Part 18** regarding the applicability of all Federal Regulations to third party contracts in that: Contractor shall at all times comply with all applicable FTA regulations, policies, procedures, and directives, including without limitation those listed directly or by reference in the Agreement (**Form FTA MA (2) dated October, 1995**) between purchaser and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to comply shall constitute a material breach of this contract.

**Incorporation of Federal Transit Administration (FTA) Terms:** The Contractor and purchaser agree that in compliance with **FTA Circular 4220.1F** certain standard terms and conditions required by DOT, whether or not expressly set forth in the preceding contract provisions shall be included by reference. All contract provisions required by DOT, as set forth in **FTA Circular 4220.1F** are hereby incorporated by reference. Anything to contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any Gary PTC requests, which would cause Gary PTC to be in violation of the FTA terms and conditions.

## **Bonds**

**Bid/Proposal Bond:** Some Bids/Proposals may require a Bid/Proposal Bond from a Surety Company licensed to do business in the State of Indiana or a certified or cashier's check drawn on a solvent banking institution in the amount specified in the BID Checklist of the RFP (Section 2). All bonds are to be made payable to the Gary Public Transportation Corporation and shall serve as a guarantee that should the offer be accepted by Gary PTC the Responder will within thirty (30) working days after notification of acceptance, enter into a contract for the work offered or accepts Gary PTC's Purchase Order for the solicited goods/services.

In the event the offer is not accepted by Gary PTC, the obligation of the Bond and/or certified check will be considered null and void. Any certified checks submitted during the Bid process shall be returned to the Responder.

If the successful vendor does not enter into a Contract or Purchase Order agreement with Gary PTC after the acceptance of the offer, the obligation of the Bond or certified check shall be forfeit to Gary PTC for ascertained or liquidated damages for the failure to enter into the Contract or Purchase Order.

**Performance Bond:** In compliance with **49 CFR Part 29**, all construction activities and contracts exceeding \$100,000 shall be subject to a performance bond for One Hundred percent (100%) of the face amount of the contract. The successful vendor shall be required to submit within ten (10) working days of the notification of the award of the contract, and at its own expense, a Performance Bond issued by a surety company licensed to do business in the State of Indiana or a certified check drawn on a solvent banking institution, conditioned on the satisfactory completion of the Contract. The bond will not be released until releases by all suppliers and contractors are secured and presented to Gary PTC.

Failure to supply a Performance Bond, or failure to maintain a Performance Bond in effect for the term of the Contract, will be defined as a material breach of the contract and will result in termination of the Contract within thirty (30) working days with penalties and damages as defined in the Statement of Work (Section 2) being enforced. Bonding requirements may be applied to any contract at the discretion of Gary PTC, but must be applied to those detailed in the referenced Circular.

All construction projects shall comply with the provisions established and set forth in **Seismic Safety Requirements, 42 U.S.C. 7701 et seq., 49 CFR Part 41**. These codes and regulations are hereby incorporated into this contract by reference. The contractor agrees that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation **Seismic Safety Regulations 49 CFR Part 41** and will certify to compliance to the extent required by the regulation. The contractor also agrees to ensure that all work performed under this contract including work performed by a subcontractor is in compliance with the standards required by the Seismic Safety Regulations and the certification of compliance issued on the project.

***Payment bonds:***

1. The penal amount of the payment bonds shall equal:
  - (i) Fifty percent of the contract price if the contract price is not more than \$1 million.
  - (ii) Forty percent of the contract price if the contract price is more than \$1 million but not more than \$5 million; or
  - (iii) Two and one half million if the contract price is more than \$5 million.
2. If the original contract price is \$5 million or less, the (Recipient) may require additional protection as required by subparagraph 1 if the contract price is increased.



### **Supplies, Materials, Equipment, and/or Service Specifications**

It is hereby agreed by Gary PTC that time is of the essence of this Agreement. The contractor shall supply the said supplies, materials, equipment, and/or service in conformance with these General Specifications, and any and all Special and/or Technical Specifications detailed in the Scope of Work (Section 2) of this solicitation.

In the event that the supplies, materials, equipment, and/or services are not delivered or performed by the contractor, a liquidated damage provision in the sum of the difference in cost plus an administrative fee, for Gary PTC to procure the items or services from the next most desired respondent will be assessed. However, any delay in compliance with the terms and conditions of any award or contract resultant from an award shall not result in liquidated damage if such delay is beyond the control of the contractor.

**Definitions of delays beyond the control of the contractor:** Delays can include, but are not limited to, Acts of God; Acts of the Federal Government; Acts of the State Government; Acts of a Municipal Governmental Agency; or acts of war by a foreign power. Also beyond the control of the contractor are guarantee restrictions and strikes by labor forces. In every case, the failure to perform must be beyond the control and without the fault or negligence of the contractor.

If delays are caused by the default of a subcontractor, the assessment of damages against the contractor shall apply.

### **Comparison, Testing, and Evaluation**

Gary PTC may, during the term of this contract and without liability from the contractor, purchase reasonable amounts of similar "requirements" from competitive suppliers for the purposes of comparison, testing, and evaluation.

Gary PTC may require submission of samples for testing and evaluation from the lowest submitter(s) prior to the award of a contract. If asked for, the samples must be delivered to the location specified within three (3) business days from the date the request is made by Gary PTC. Failure to comply with this requirement will eliminate the respondent from further award consideration.

### **Time and Consideration**

Failure to conform to the contractual delivery schedule for goods or services will be cause for Gary PTC to terminate the contract for default if Gary PTC chooses to do so. If such failure is deemed to be caused by contractor negligence, the liquidated damages clause of the contract may be applied.

All disputes that might arise under this contract may not be viewed as cause for termination, which, if they cannot be resolved between the contractor and Gary PTC, will be handled through compulsory arbitration by a mutually acceptable arbiter. All contracts in excess of One Hundred Thousand Dollars (\$100,000) shall contain provisions for dispute resolution and contractual requirements and conditions governing the legal remedies in contracts where a breach or violation of contract terms occur. All provisions pertaining to contract dispute resolution found in **FTA Circular 4220.1F** are subject to applicability and execution in this contract. **49 CFR Part 18** also applies. Both **FTA Circular 4220.1F** and **49 CFR Part 18** are hereby included in the contract by reference.

Disputes: Disputes arising in the performance of this contract, which are not resolved by agreement of the parties, shall be decided in writing by the authorized representative of Gary PTC, the Chief Administration Officer. This decision shall be final and conclusive unless ten (10) days from the date of receipt of its copy, the contractor mails or otherwise furnishes a written appeal to the Chief Executive Officer. In connection with any such appeal, the contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the Chief Executive Officer shall be binding upon the contractor and the contractor shall abide by the decision.

Performance During Disputes: Unless otherwise directed by Gary PTC, contractor shall continue performance under this contract while matters in dispute are being resolved.

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

Remedies: Unless this contract provides otherwise, all claims, counterclaims, disputes, and other matters in question between the Gary PTC and the contractor arising out of a relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State of Indiana.

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

## Termination

For all contracts entered into by Gary PTC and any contractor or subcontractor for which the amount of costs shall be Ten Thousand Dollars (\$10,000) or more, any termination shall be in accordance with the provisions found in **49 U.S.C. Part 18, and FTA Circular 4220.1F**. These provisions shall apply to contracts at all tiers of the project.

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

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

If it is later determined by Gary PTC that the contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the contractor, Gary PTC, after setting up a new delivery performance schedule, may allow the contractor to continue work, or treat the termination as a termination for convenience.

Opportunity to Cure (General provision): Gary PTC at its sole discretion may, in the case of a termination for breach or default, allow the contractor fourteen calendar days in which to cure the defect. In such case, the notice of termination will state the time period in which the cure is permitted and other appropriate conditions.

If the contractor fails to remedy to Gary PTC's satisfaction the breach or default or any of the terms, covenants, or conditions of this contract within fourteen (14) working days after receipt by the contractor or written notice from Gary PTC setting forth the nature of the breach or default, Gary PTC shall have the right to terminate the contract without any further obligation to the contractor. Any such termination for default shall not in any way operate to preclude Gary PTC from also pursuing all available remedies against the contractor and its sureties for said breach or default.

Waiver of Remedies for any Breach: In the event that Gary PTC elects to waive its remedies for any breach by contractor of any covenant, term, or condition of this contract, such waiver by Gary PTC shall not limit Gary PTC's remedies for any succeeding breach of that or of any other term, covenant, or condition of this contract.

Termination for Convenience (Professional or Transit Service Contracts): Gary PTC, by written notice, may terminate this contract, in whole or in part, when it is in the Government's interest. If this contract is terminated, Gary PTC shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

Termination for Default (Supplies and Services): If the contractor fails to deliver supplies or fails to perform, the services in the time specified in this contract or any extension or if the contractor fails to comply with any other provisions of this contract, Gary PTC may terminate this contract for default. Gary PTC shall terminate by delivering to the contractor a Notice of Termination specifying the nature of the default. The contractor will only be paid the contract price for supplies delivered and accepted, for services performed in accordance with the manner of performance set forth in this contract. If after termination for failure to fulfill contract obligations, it is determined that the contractor was not in default the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Gary PTC.

Termination For Default (Transportation Services): If the contractor fails to pick up the commodities or to perform the services, including delivery services, within the time specified in this contract or any extension or if the contractor fails to comply with any other provisions of this contract, Gary PTC shall terminate by delivering to the contractor a Notice of Termination specifying the nature of default. The contractor will only be paid the contract price for services performed in accordance with the manner of performance set forth in this contract.

If this contract is terminated while the contractor has possession of Gary PTC's goods, the contractor shall, upon direction of Gary PTC, protect and preserve the goods until surrendered to Gary PTC or its agent. The contractor and Gary PTC shall agree on payment for the preservation and protection of goods. Failure to agree on amount will be resolved under the Dispute clause.

If after termination for failure to fulfill contract obligations, it is determined that the contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of Gary PTC.

Termination for Default (Construction): If the contractor refuses or fails to prosecute the work or any separate part, with the diligence that will insure its completion within the time specified in this contract or any extension or fails to complete the work within this time, or if the contractor fails to comply with other provisions of this contract, Gary PTC may terminate this contract for default. Gary PTC shall terminate by delivering to the contractor a Notice of Termination specifying the nature of the default. In this event Gary PTC may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. The contractor and its sureties shall be liable for any damage to Gary PTC resulting from the contractor's refusal or failure to complete the work within the specified time, whether or not the contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by Gary PTC in completing the work.

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

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

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

Termination for Convenience or Default (architect and Engineering): Gary PTC may terminate this contract in whole or in part, for its convenience or because of the failure of the contractor to fulfill the contract obligations. Gary PTC will terminate by delivering to the contractor a Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the contractor shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the contracting officer all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process.

If the termination is for convenience of Gary PTC, the contracting officer shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services.

If the termination is for failure of the contractor to fulfill the contract obligations, Gary PTC may complete the work by contract or otherwise and the contractor shall be liable for any additional cost incurred by Gary PTC.

If after termination for failure to fulfill the contract obligations, it is determined that the contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of Gary PTC.

Termination for Convenience or Default (Cost Type Contractors): Gary PTC may terminate this contract, or any portion of it, by serving Notice of Termination on the contractor. The notice shall state whether the termination is for convenience of Gary PTC or for the default of the contractor. If the termination is for default, the notice shall state the manner in which the contractor has failed to perform the requirements of the contract. The contractor shall account for any property in its possession paid for from funds received from Gary PTC, or property supplied to the contractor by Gary PTC. If termination is for default, Gary PTC may fix the fee, if the contract provides for a fee, to be paid the contractor in proportion to the value, if any, of work performed up to the time of termination. The contractor shall promptly submit its termination claim to Gary PTC and the parties shall negotiate settlement to be paid the contractor.

If the termination is for the convenience of Gary PTC, the contractor shall be paid its contract close-out costs, and a fee, if the contract provided for payment of a fee, in proportion to the work performed up to the time of termination.

If, after serving a Notice of Termination for Default, Gary PTC determines that the contractor has an excusable reason for not performing, such as strike, fire, flood, events which are not the fault of and are beyond the control of the contractor, Gary PTC, after setting up a work schedule, may allow the contractor to continue work, or treat the termination as a termination for convenience.

## References

Gary PTC requires the vendors submitting bids to furnish a list of at least Five (5) references, which are now, or within the past five years been a customer of the vendor and to whom has been provided services of a similar nature. This list shall include the following:

Customer Name  
Name of Procurement Officer  
Customer Address (where operation takes place)  
Customer Telephone Number

If requested the list must be part of the bid submission. Failure to comply with that request would result in the removal of the vendor from any further consideration for contractual agreement.

### **Warranties and Guarantees**

The contractor will deliver to Gary PTC any and all Warranties and Guarantees for the contracted goods and/or services delivered in their hand from a manufacturer or other provider as a result of the contractual arrangement with Gary PTC.

The contractor shall warrant concerning the requirement:

- Conformance to specifications
- Products free from defects, functionally acceptable, of good materials and workmanship and suitable for the intended use.
- No United State or Foreign PATENT infringement
- Compliance with all Federal, State, and Municipal Statutes, regulations, circulars, codes, and ordinances

The contractor shall not assign nor transfer any interest in this agreement without the prior written consent of Gary PTC. In addition, none of the services covered by this agreement shall be sub-contracted or contracted out, unless quoted that way in the original bid response without the written approval of Gary PTC.

### **Price**

Gary PTC shall pay to the contractor the price(s) stated in the contractor's bid or alternate bid as accepted by Gary PTC.

All items are to be delivered F.O.B. destination, unless otherwise stated. All transportation costs from the shipping point to the destination shall be paid by the contractor and included in the submitted price. Full responsibility for any damages incurred while in transit shall be borne by the contractor.

All invoices for supplies, services, materials or equipment shall be submitted to:

Gary Public Transportation Corporation  
Attention: Accounts Payable Department  
100 West 4<sup>th</sup> Avenue, Third Floor  
Gary, IN 46402

### **Invoice Submission, Contents, and Payments**

Vendors shall submit invoices for all work completed. Gary PTC may not pay in advance for work not performed, and will not pay for work not clearly defined with a clear statement of the deliverable for which the payment is requested. Gary PTC requires all invoices submitted clearly define and show on the face of the invoice the project for which the invoice is being submitted. Commodity invoicing should show Purchase Order (and contract number if applicable), part numbers, quantities, and unit as well as extended prices, and any delivery, core or set-up charges included by date. Service invoicing should show Purchase Order number (and contract number if applicable), a detail of the content of work completed, the person or group completing the work, the charges for the work completed, and any associated additional charges applicable. Gary PTC will review and process for payment acceptable invoices, or returns faulty invoices to the vendor within fourteen days. All invoices retained for processing will be paid in thirty days from receipt of properly executed invoice.

### **Single Offers**

If only One (1) offer is received, Gary PTC is required under the terms of **FTA Circular 4220.1F** to conduct a cost and price analysis. That analysis will then be submitted to the FTA prior to any award. Vendor is required to hold pricing firm until FTA approval or rejection is received. Vendors are required to provide for the analysis any requested information. Failure to provide the requested information will result in the vendor being removed from consideration for contract completion. Gary PTC reserves the right to accept or reject the submitted offer on the basis of the analysis or comparison alone if it is deemed in the best interest of Gary PTC to accept or reject.

### **Invoice Payment**

Payment terms of the contract shall be NET 30 DAYS except where Cash Discount Terms are requested and included on the Bid cost sheet by the respondent. Vendor cash discount terms on invoices that offer to Gary PTC better cash discounts than the Bid may be accepted. The minimum acceptable payment term is NET 30 DAYS,

Request for terms of less than this will most probably not be honored unless supported by a need or circumstance that would justify a change in policy on the part of Gary PTC.

### **Indemnity**

The contractor shall indemnify Gary PTC, Gary PTC's board of directors, and all of its agents and/or employees, and hold them harmless from all losses, damages, costs, expenses, claims, suits, judgments in law and equity, that may at any time arise, or be set up, by any breach of any express or implied warranties arising out of the furnishing of supplies, materials, equipment, and/or services under this agreement; or arising out of any other failure of the contractor to meet the obligations of the contract. Gary PTC will give the contractor prompt notice in writing of the institution of any suit or proceeding and permit the contractor through his counsel to defend same, and will deliver all needed information, assistance, and authority to enable the contractor to do so.

## **Title VI Compliance, Civil Rights Act of 1964**

During the performance of this contract, the contractor agrees to the following:

- A. The contractor shall comply with the regulations relative to **Non-discrimination in Federally Assisted programs of the DOT, Title 49, CFR, Part 21**, as they may have been amended from time to time, which are herein referenced and made a part of this contract.
- B. The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, sex, age, or national origin in the selection and retention of subcontractors, including procurement of materials and lease of equipment
- C. The contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the regulations, including employment practices, when the contract covers a program set forth in Appendix B of the regulations.
- D. In all solicitations, either by competitive bids or negotiations, made by the contractor for work to be performed under a subcontract, including procurements or materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under the contract and the regulations relative non-discrimination on the grounds of race, color, sex, age, or national origin.
- E. The contractor shall provide all information and reports required by the regulations or directives issued pursuant thereto, and shall permit access to the books, records, accounts, other sources of information and its facilities as may be determined by Gary PTC or the FTA, to be pertinent to ascertain compliance with such regulations, orders, and instructions. All in accordance with the provisions as set forth in with **49 U.S.C. 5325, 18 CFR 18.36, and 49 CFR 633.17**, or any other law, regulation, code, requirement, or directive applicable to the access of records. Where any formation is required or when a contractor is the exclusive contractor for any good or service under the terms of this contract, that contractor may be required to certify such assurances to Gary PTC and/or FTA as appropriate and shall set forth in that certification what efforts have been made to obtain and to provide the information.



The following access to records requirements apply to this contract:

1. Where the purchaser is not a State but a local government, and is the FTA Recipient or a sub-grantee of the FTA recipient in accordance with **49 CFR 18.36 (i)**, the contractor agrees to provide purchaser, the FTA Administrator, the Comptroller general of the United States or any of their authorized representatives access to any books, documents, papers, and records of the contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions. Contractor also agrees, pursuant to **49 CFR 633.17** to provide the FTA Administrator or his authorized representatives including any PMO contractor access to contractor's records and construction sites pertaining to a major capital project, defined at **49 U.S.C. 5302(a)1**, which is receiving federal financial assistance through the programs described at **49 U.S.C. 5307, 5309, or 5311**.
2. Where the purchaser is a State and the FTA recipient or sub-grantee of the FTA recipient in accordance with **49 CFR 633.17**, contractor agrees to provide the purchaser, the FTA Administrator or his authorized representatives, including any PMO contractor, access to the contractor's records and construction sites pertaining to a major capital project, defined at **49 U.S.C. 5302(a)1**, which is receiving federal financial assistance through the programs described at **49 U.S.C. 5307, 5309, or 5311**. By definition, a major capital project excludes contracts of less than the simplified acquisition threshold currently set at \$100,000.
3. Where the purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, an hospital, or other non-profit organization, and is the FTA recipient or a sub-grantee of the FTA recipient in accordance with **49 CFR 19.48**, contractor agrees to provide the purchaser, FTA Administrator, or the Comptroller General of the United States or any of their duly authorized representatives with access to any books, documents, papers, and records of the contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.
4. Where any purchaser which is the FTA recipient or a sub-grantee of the FTA recipient in accordance with **49 U.S.C. 5325(a)** enters into a contract for a capital project or improvement (defined at **49 U.S.C. 5302(a)1** through other than competitive bidding, the contractor shall make available records related to the contract to the purchaser, the Secretary of Transportation, and the Comptroller General of the United States or any authorized representative of any of them for the purposes of conducting an audit or inspection.

5. The contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonable needed.
6. The contractor agrees to maintain all books, records, accounts, and reports required under this contract for a period of not less than three years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case contractor agrees to maintain same until the purchaser, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims, or exceptions related thereto. Reference **49 CFR 18.39(i)(11)**.

F. In the event of the contractor's violation of the non-discrimination clauses of this contract, Gary PTC retains the right to impose such contract sanctions as it or the FTA may determine to be appropriate, including but not necessarily limited to:

Withholding of payments to the contractor under the contract until the contractor complies, and/or cancellation, termination, or suspension of the contract in part or in whole.

### **Labor Provisions**

In the event this contract requires the hiring of Mechanics, or Laborers, all provisions of **29 CFR Section 5.5** will apply. The contractor will be responsible for compliance by any subcontractor with any and all clauses set forth in this regulation.

### **Labor Provisions**

In the event this contract requires the hiring of Mechanics, or Laborers, all provisions of **29 CFR Section 5.5** will apply. The contractor will be responsible for compliance by any subcontractor with any and all clauses set forth in this regulation.

### **Assurances, 49 CFR, Part 26.13 Required Contract Provisions:**

The following assurances are included in all agreements between Gary PTC and the vendors to whom contracts are issued.

1. Any and all financial assistance agreements signed by Gary PTC will include an assurance that Gary PTC will not discriminate on the basis of race, color, national origin, or gender in the award and performance of any DOT assisted contract or in the administration of its DBE program or the requirements of **49 CFR, Part 26** to ensure nondiscrimination in the award and administration of DOT assisted contracts. Gary PTC's DBE program, as required by **49 CFR, Part 26**, and as approved by USDOT, will be incorporated by reference in all applicable agreements.
2. Implementation of this program is a legal obligation, and failure to carry out its terms shall be treated as a violation of this agreement.

3. Each contract that Gary PTC signs with a contractor (and each subcontract the prime contractor signs with a subcontractor) will include the following assurance.

“The contractor, subrecipient, or subcontractor shall not discriminate on the basis of race, color, national origin, or gender in the performance of this contract. The contractor shall carry out applicable requirements of **49 CFR, Part 26** in the award and administration of DOT assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as Gary PTC deems appropriate.”

***Prompt Payment Mechanism, 49 CFR, Part 26.29***

Gary PTC has established a mechanism for prompt payment of DBE subcontractors by prime contractors. Prime contractors are required to pay subcontractors within five days from the receipt of payment from Gary PTC. They are further required to return funds retained within thirty (30) days after the subcontractor’s work is satisfactorily completed. Clauses requiring prompt payment have been included in all Gary PTC agreements with contractors.

Prime contractors are required to include this language (clauses) in their contracts with subcontractors. Any delay or postponement of payment may only take place for good cause, with prior approval of Gary PTC. Where there are disputes, prime contractors and subcontractors will be required to use appropriate Alternative Dispute Resolution (ADR) mechanism to resolve payment disputes. Gary PTC will participate in the resolution if necessary.

Failure to carry out prompt payment requirements will be considered a breach of contract with the following results:

1. Gary PTC will not reimburse prime contractors for work performed by subcontractors unless and until the prime contractor ensures that the subcontractors are promptly paid for the work they have performed.
2. Gary PTC will not award future contracts to prime contractors who refuse to pay promptly.

***Financial Institutions, 49 CFR, Part 26.27***

Gary PTC has thoroughly investigated its service area for banks and financial institutions owned and controlled by DBEs. The results of the investigation revealed that there are no such institutions within the City of Gary. However, Gary PTC encourages the prime contractors, subcontractors, and various vendors to search for and utilize services provided by financial institutions that are owned and/or controlled by DBEs, and requires all such parties to make good faith effort to do so.

Gary PTC, in accordance with **Title VI of the Civil Rights Act of 1964, 778 §252, 42 U.S.C. 2000d to 2000 – 4, and Title 40, CFR, DOT**, Subtitle A, Office of the Secretary, Part 21, Non-Discrimination in Federally Assisted Programs of the DOT issued pursuant to such act, hereby notified all vendors that it will affirmatively insure that for any contract entered into pursuant to this advertisement; Minority Business Enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminate against on the grounds of race, color, sex, age or national origin in the consideration of award.

DBE is a small business concern and is a business of which at least 51% is owned and controlled by a Minority group member(s). The minority ownership must exercise actual day-to-day management, as well as actively participate in management and policy decisions affecting the business.

Small business concerns are a small business as defined by **Section 3 of the Small Business Act and Appendix B – Section 106(c)** determinations of Business Size. Socially and economically disadvantaged individuals are those who are citizens of the United States (or lawfully admitted permanent residents) and States (or lawfully admitted permanent resident) and who are Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Asian-Indian Americans, or women, and any other minorities and individuals found to be disadvantaged by the Small Business Administration pursuant to Section 8(a) of the Small Business Act

**NOTE:** Minority includes the following groups: African-American, Spanish American, Native-American, Asian, Pacific Islander, Alaskan Natives, and women.

- i. “Black Americans” which includes persons having origins in any of the Black racial groups of Africa.
- ii. “Hispanic Americans” which includes persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese culture of origin, regardless of race.
- iii. “Native American” which include persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians.
- iv. “Asian Pacific Americans” which includes persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the U.S. Trust Territories of Pacific, and the Northern Marianas.
- v. “Asian Indian Americans” which includes persons whose origins are from India, Pakistan, and Bangladesh.

The contributions of capital, equipment, or expertise that has been made by the minority owners must be real, substantiated, and documented. It is the policy of Gary PTC that DBE vendors should participate to the greatest extent possible consistent with the laws of the State of Indiana in contracts awarded by Gary PTC.

It is the policy of DOT that DBEs as defined in **49 CFR Part 23** and amended in **Section 106(c) of the Surface Transportation Assistance Act of 1987**, shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this agreement. Consequently the DBE requirements of **49 CFR 23** and amended by **Section 106(c) of the Surface Transportation Assistance Act of 1987** apply to this agreement and is considered pertinent to any contract resulting from this solicitation. It is further the policy of Gary PTC to promote the development and increase the participation of business owned and controlled by the disadvantaged. DBE involvement in all phases of Gary PTC’s procurement activities are encouraged and the overall goal for GPTC’s race-neutral DBE program is 2.23%.

### **DBE Obligation**

Gary PTC will provide guidance and assistance as may be necessary to assist the contractor to ensure that DBEs, as defined in **49 CFR Part 23**, have the maximum opportunity participate in the performance of contractors and subcontractors financed in whole or in part by FTA funds. Contractors shall not discriminate on the basis of race, color, sex, age, or national origin in the award and performance of DOT assisted contracts.

If a specific DBE goal is assigned to this contract, the goal will be clearly stated in the Scope of Work of this solicitation. If the contractor is found to have failed to exert sufficient, reasonable, and good faith efforts to involve DBEs in the work provided, Gary PTC may declare the contractor non-compliant and in breach of contract. If a goal is not stated in the Scope of Work, it will be understood that no specific DBE goal has been assigned this contract.

The contractor and its subcontractors agree to ensure that disadvantaged businesses have the maximum opportunity to participate in the performance of contracts financed in part or in whole with Federal Funds. All necessary steps will be taken to assure total and full compliance with the intent and the contents of **49 CFR Part 23** as amended.

The contractor shall keep records and documents for a reasonable time following performance of this contract to indicate compliance with Gary PTC's DBE program. These records and documents will be made available at reasonable times and places for inspection by any authorized representative of Gary PTC and will submit them to Gary PTC upon request.

### **Program Fraud and False or Fraudulent Statements and Related Acts**

In all contracts made with or subcontracts made for Gary PTC, it is understood that the following requirements are a necessary and vital part of the agreement(s).

The contractor acknowledges that the provisions of the **Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. §§ 3801 et seq. and U.S. DOT regulations "Program Fraud Civil Remedies", 49 CFR Part 31** apply to its actions pertaining to this Project. Upon execution of the underlying contract the contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, or may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the contractor further acknowledges that if it makes, or cause to be made, a false, fictitious, or fraudulent claim, statement, submissions, or certification, the Federal Government reserves the right to impose the penalties of the **Program Fraud Civil Remedies Act of 1986** on the contractor to the extent the Federal Government deems appropriate.

The contractor also acknowledges that if it makes or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with federal assistance originally awarded by FTA under the authority of **U.S.C. § 5307**, the Government reserves the right to impose penalties of **18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1)** on the contractor to the extent the Federal Government deems appropriate.

The contractor agrees to include the above two clauses in each subcontract finance in whole or in part with Federal assistance provided by FTA. It is further agreed that the two clauses shall not be modified except to identify the subcontractor who will be subject to the provisions.

### **Offer of Assistance**

Gary PTC will provide affirmative assistance as may be reasonable and necessary to assist the prime contractor in implementing their programs for DBE participation. The assistance may include the following upon request:

- Identification of qualified DBEs
- Available listing of Minority Assistance Agencies
- Holding conferences for Scope of Work to emphasize requirements.

### **Statement of Non-Collusion**

In submitting a response, the contractor affirms that the Offer is genuine and not collusive or a sham; that said Responder is not financially interested in, or otherwise affiliated in a business way, with any other respondent on the same contract; that said Responder has not colluded, conspired, connived, nor agreed directly or indirectly, with any submitter or person to submit a sham bid or that such other person shall refrain from Offering, and has not in any manner, directly or indirectly, sought by agreement or collusion, or communication, or conference with any person to fix the price of this or any other bid, or to fix any overhead, profit, or other cost element of said Bid Price, or this or any other submitter, or to secure any advance against Gary PTC or any persons interested in the proposed contract; and that all statements contained in said Offer are true; and further that such Respondent has not directly or indirectly submitted this Offer or the contents thereof, or divulged information or data relative thereto to any association, or any member or agent thereof. Failure to sign and have notarized the Non-Collusion Affidavit on Form 95 will result in disqualification of this Offer. Contractor further certifies that Non-Collusion as here defined and sworn by his affidavit is in full compliance with the nature and intent of the **Sherman Anti-Trust Act** as amended, the **Clayton Act** as amended, the **Robinson-Patman Act** as amended, and the **Federal Trade Commission Act** as amended.

### **Buy America**

This procurement is subject to FTA's "Buy America" requirements as defined in **49 CFR 661**. The "Buy America" certificate, included in this bid document, must be completed and submitted with the submittal. All items not conforming to the "Buy America" criteria must be submitted as a request for approved alternate, as defined in this document. Any Offer which does not include a properly executed "Buy America" certificate will be considered non-responsive and excluded from the award process.

### **Restriction on Lobbying**

Lobbying requirements included in this contract require the maximum flow down to all tiers of the contract/subcontract process. They are pursuant to **Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352(b)(5) and 49 CFR Part 19, Appendix A, Section 7**.

### **Mandatory Clause/Language:**

- Clause and specific language therein are mandated by **49 CFR Part 19, Appendix A**. Modifications have been made to the Clause pursuant to **Section 10 of the Lobbying Disclosure Act of 1995, P.L. 104-65[to be codified at 2 U.S.C. § 1601, et seq.]**
- Lobbying Certification and Disclosure of Lobbying Activities for third party contractors are mandated by **31 U.S.C. 1352(b)(5)**, as amended by **Section 10 of Lobbying Disclosure Act of 1995**, and DOT implementing regulations, “New Restrictions on Lobbying” at **49 CFR § 20.110(d)**.
- Language in lobbying Certification is mandated by **49 CFR Part 19, Appendix A, Section 7**, which provides that contractors file the certification required by **49 CFR Part 20**, as amended by “Government Wide Guidance For New Restrictions on Lobbying” **61 Fed. Reg. 1413 (1/198/96)** as mandated by **49 CFR Part 20, Appendix A**.

**Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995; P.L. 104 – 65 [to be codified at 2 U.S.C. § 1610 et seq.]** Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by **49 CFR Part 20**, “New Restrictions on Lobbying”. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or other award covered by **31 U.S.C. 1352**. Each tier shall also disclose the name of any registrant under the **Lobbying Disclosure Act of 1995** who has made lobbying contacts on its behalf with Non-Federal funds with respect to that Federal contract, grant, or award covered by **U.S.C. 1352**. Such disclosures are forwarded from tier up to tier to the recipient.

### **Interest of Public Officials**

No member of, or delegate to the Congress of the United States, shall be admitted to any share or part of the contract or to any benefit arising therefrom. No member, officer, or employee of Gary PTC or of a local body, during his/her tenure, or for one year thereafter shall have any interest, direct or indirect, in this contract or the proceeds thereof.

### **State, Federal, and OSHA Requirements**

The contractor agrees to submit and comply with the contents and intent of the latest Federal and State amendments of all work site regulations, laws, rules, and regulations and to impart all training and documentation to support that certified compliance with same.

### **Environmental Violations**

All contracts and subcontracts awarded by Gary PTC or for Gary PTC that are in excess of \$100,000 require a contractor compliance with all applicable standards, orders, requirements, and codes issued under **Section 306 of the Clean Air Act (42 U.S.C. 1857(h), Section 508 of the Clean Water Act (33 U.S.C. 1368) Executive Order 11738, and EPA Regulations (40 CFR Part 15)** which prohibits the use (under non-exempt) Federal contracts, grants, or loans) of facilities included on the EPA list of Violating Facilities. The contractor shall report any such violations to the FTA and to the EPA Assistant Administrator for Enforcement (**EN0329**). In addition, the contractor shall warrant compliance with any and all federal, State, and Local environmental laws, statutes, ordinances, and regulations in connection with the provision of all supplies and services covered by this RFP. Such provisions include but are not limited to, **Energy Conservation Requirements, 42 U.S.C. 6321 et seq., 40 CFR Part 18; Clean Air Requirements 42 U.S.C. 7401 et seq., 40 CFR 15.61, and 49 CFR Part 18; Clean Water Requirements 33 U.S.C. 1251; and Recycled Products 42 U.S.C. 6962, 40 CFR Part 247, and Executive Order 12873.**

Further, the contractor shall recognize mandatory requirements and policies relating to energy efficiencies which are contained I the State Emergency Conservation Plan issued in compliance with the Energy Policy and Conservation Act.

### **Use of United States Flag Vessels**

The contractor agrees to utilize privately owned United States flag commercial vessels to ship at least 50% of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any supplies, materials, equipment, or commodities pursuant to this contract, to the extent such vessels are available at fair and reasonable rates. The contractor agrees to furnish a legible copy of the shipping rate to Gary PTC within twenty (20) working days following the date of loading shipments originating outside the United States.

A copy of the shipping rate may be required to be sent to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20239, marked with the appropriate identification of the project.

### **Funding**

Gary PTC notifies all potential Respondents via this Solicitation notice that funds may not presently be available for performance of this contract beyond the end of this calendar year. However, long term encumbrance of funds sufficient to cover the cost of this project will secure sufficient funds to pay for all work done in each calendar year for which a purchase order is issued. New purchase orders shall be issued on January 1 of the year for any project that may span portions of, or all of, multiple years.

### **State and Local Laws**

Any contract entered into by Gary Public Transportation Corporation shall be defined by the law of the State of Indiana or Local ordinances and Codes of Lake County, State of Indiana. Any dispute shall be tried in a court of competent jurisdiction of Lake County of the State of Indiana. All procurements shall be governed by the applicable regulations of the FTA, the United States Code, or the State and Local Law.



## **ADDITIONAL REQUIREMENTS IN SPECIALIZED PROCUREMENTS**

In the case of any procurement being a part of or associated with a subcontract to the procurement of vehicles for transit service, these Federal requirements will be a part of this contract.

In accordance with **Section 30**, contractor will conform with the Metrics requirements as set forth by the Departments of Labor and Transportation of the United States of America.

The contractor shall be required to certify it is compliant with the terms, intent, and conditions of **Section 3.b of 49 CFR Part 29** as it relates to Debarment and/or Suspension requirements of the Federal Transportation Administration in association with this or any other federal, state, or municipal contract, agreement, or purchase order.

The contractor agrees that it will fully comply and support the contents of “Fly America” CFR 49 Part 29, Section 14.c when any property or person employed in the actions or toward the completion of any contract funded in whole or in part by FTA financial involvement travels or is shipped from one point to another by air carrier.

**In the event of an award that is in excess of \$500,000, there shall be a formal notification of Federal participation issued to all solicitations in accordance with Section 15.n of FTA Circular 4220.1F.**

**All vendors are hereby notified that in accordance with the laws of the State of Indiana, no response may be submitted by any vendor that is based upon formulation of cost and materials supported in part or in whole through the use of child labor.**

### **Bid Protest Procedure**

The “Bid Protest Procedure” detailed below is an integral part of the Gary PTC procurement policies. It is provided to ensure fairness to all prospective vendors desiring to compete for business from Gary PTC and to prepare a response to any solicitation in which Gary PTC specifies requirements for equipment, material, services, or goods.

### **GENERAL**

Protest(s) will only be accepted by Gary PTC’s Purchasing Department from officers of a business whose direct economic interest would be affected by the award of a contract or the refusal to award a contract. The Director of Procurement will consider all such protests, whether submitted before or after the award of such a contract. If oral objections are raised and the matter cannot be resolved to the satisfaction of the objector, a written protest shall be required before any further consideration is given. Protest(s) submissions should be concise, logically arranged and state clearly the grounds for protest.

All protest must include the following minimal information:

1. Business Name, Protestor name, Business address, and Business phone number.
2. Identification of the solicitation in protest by number.

3. A detailed statement of the legal and/or functional ground under protest, including copies of the relevant documents.
4. A brief statement of the relief requested.

All protest documents that are received by Gary PTC shall be stamped with the date and time received and logged into a "Protest File".

#### DEFINITIONS:

For purposes of the Bid Protest Procedure, the following definitions apply:

1. Days refers to working days of the Federal Government.
2. File or submit refers to the date of receipt by Gary PTC or the FTA, as the case may be.
3. Interested Party means an actual or prospective bidder or offerer, whose direct economic interest would be affected by a reward of, or a refusal to award, a contract.
4. Bid includes the term "offer" as used in the context of negotiated procurements as well as the terms "Bid", "Submission", or other terms generally recognized to apply to a formal submission to a request by a business for selection of goods or services.

#### **Protest Before An Award**

Protest before an award must be submitted within the time frames specified for each of the two types of before award protest. The Director of Procurement shall notify and log as detailed above.

For those protest which are a protest against the allotted time for offer preparation, solicitation content, specification detail, or procedural protest, the time frame during which such protest shall be received shall be limited to three (3) days before the time/date given for the receipt of Offers (including the day of the bid opening or receipt as day three (3)). If such protests are not lodged within the specified time, the participants in the subject solicitation shall be deemed to have waived all rights to protest any procedural or specification item.

If after the submission of offers but *before* the formal award of a contract, any offerer or vendor feels the need to file a protest; such protest must be received within ten (10) days of the scheduled opening of the referenced response.

If "before award" protests are received within the specified time, the Director of Procurement shall request of each vendor submitting a response a certification of the extension of prices and waiver of time to preclude any requirements to re-solicit.

Where a written protest is received against the making of an award, the award shall not be made until five (5) days after the resolution of the protest, unless the Director of Procurement determines that:

*The item(s) being procured is critical to business; or*

*Deliverance or performance will be unduly delayed if there is a failure to award; or*

*Failure to make prompt award will otherwise cause undue harm to Gary PTC or the State or Federal government.*

In the event a determination is made that the award is to be made during the five-day period, or during the pendency of a protest, the Director of Procurement shall furnish written notification to FTA of the intent to award prior to the award. FTA reserves the right to not participate in any such award.

If such an award is made, the files will contain full and adequate documentation as to the causes and points dictating such decision be made. All persons who are party to the solicitation shall be furnished duplicate copies of all pertinent information with confirmation of the award having been made.

### **Protest(s) After an Award**

Protest against award must be filed with the Procurement Director of Gary PTC within five (5) days immediately following the award. The protest will be accepted and logged and all parties shall be advised such a protest has been logged. If it appears likely that an award will need to be rescinded or an award invalidated and a delay in receipt of goods or services shall result that is not prejudicial to Gary PTC's interest, a negotiated agreement to suspend performance shall be sought on a no cost basis.

Gary PTC shall render through the Director of Procurement, a decision on the protest within fourteen (14) days after the receipt thereof. Notice of that decision will be furnished to all interested parties. If the decision rendered by Gary PTC is deemed to be adverse by the protestor, it may file a protest with the Federal Transportation Administration (FTA).

FTA will only review protests regarding the alleged failure of Gary PTC to have a written protest procedure or the alleged failure to follow such procedures.

Alleged violations on other grounds are under the jurisdiction of appropriate State or Federal courts, or local or federal regulatory agencies. Any protest involving other matters should be filed in agreement with the directions given in particular regulations. **See, e.g., Buy American Requirements, 49 CFR Part 661 (Section 661.15); participation by Minority Business Enterprise in Department of Transportation programs, 49 CFR, Section 23.73.**

FTA's remedy for Gary PTC's failure to have a written protest procedure or failure to follow such procedure is limited to requiring Gary PTC to develop such procedures, if necessary, and to follow such procedures in reviewing the protest at issue, if Gary PTC desires FTA financial participation in the contract in question. In instances where Gary PTC has awarded to another vendor, or prior to FTA's decision on the protest, FTA may refuse to participate in funding the contract.

Protestors are required to file a protest with FTA not more than five (5) days after the rendering of a decision on the original protest by Gary PTC. In instances where the protestor alleges Gary PTC failed to make a final determination on the protest, protestors shall file a protest with the FTA not later than five (5) days after the protestor knew or should have known of Gary PTC's failure to make a final decision.

Gary PTC shall not award a contract in the five (5) day period referenced except it be in accordance with the stipulations as detailed in paragraphs above. After five (5) days, Gary PTC shall verify with FTA that no protest is on file for the particular contract in question.

Protests filed with the FTA should be filed with the appropriate FTA Regional Office with a concurrent copy to Gary PTC.

Protest filed with the FTA shall:

1. Include the name and address of the protestor.
2. Identify Gary PTC, the project number (if applicable), and the number of the contractor solicitation.
3. Contain a statement of the grounds upon which the protest is filed. This should detail the alleged violation, failure, or oversight, and contain full supporting documentation.
4. Include copies of the local protests previously filed with Gary PTC and the copy of the decision regarding such protest rendered by Gary PTC.

FTA shall notify Gary PTC in a timely manner of the receipt of a protest. FTA shall instruct Gary PTC to notify the contractor of the protest if an award has been made or, if no award has been made, to notify all interested parties. Gary PTC shall instruct all who receive such notice that they may communicate further with FTA directly.

Gary PTC shall submit the following information to FTA no later than ten (10) days after receipt of notification of FTA of the protest.

1. A copy of the Gary PTC Protest Procedure
2. A description of the process followed concerning the protestor's protest; and
3. Any supporting documentation.

Gary PTC shall then supply copies of the submissions to FTA to the protestor.

The protestor may submit to the FTA any comments on Gary PTC's submission no later than ten (10) days after receipt of the Gary PTC submission by the protestor.

When a protest has been timely filed with Gary PTC before the award of a contract, Gary PTC shall not make an award prior to five (5) days after the resolution of the protest, or if a protest has been filed with the FTA, during the pendency of that protest, unless Gary PTC determines that:

1. The items procured are urgently needed; or
2. Delivery or performance will be unduly delayed by failure to make an award promptly; or

3. Failure to make an award will cause an undo hardship on Gary PTC, the State, or the Federal Government.

In the event Gary PTC determines that the award must be made in the five (5) day period, Gary PTC will notify FTA of that decision prior to making the award. FTA reserves the right to not participate in the funding of any contract awarded under protest pendency or during the five (5) day waiting period.

Upon receipt of the submission, FTA will either request further information or a conference among the parties, or will render a decision on the protest.

**NOTE:**

**This RFP is mainly composed of a Cover Page, Table of Contents, Introduction, Scope of Work, Specifications & Requirements, Bid Checklist, they comprise a document of 61 total pages.**

**\*\*\*End of Request for Proposals documents\*\*\***