



# **REQUEST FOR PROPOSAL**

## **TRANSIT ADVERTISING PROGRAM**

**County of Lackawanna Transit System  
(COLTS)**

## **REQUEST FOR PROPOSALS TRANSIT ADVERTISING PROGRAM**

The County of Lackawanna Transit System (COLTS) the public transportation provider in Lackawanna County, Pennsylvania, in accordance with directives from the U.S. Department of Transportation and the Pennsylvania Department of Transportation, is seeking proposals for the sale and servicing of all exterior and interior advertising space on COLTS' active fleet and at bus shelter locations.

All proposals and related documents will be subject to the financial assistance contract between the Federal Transit Administration (FTA), the Pennsylvania Department of Transportation (PennDOT) and COLTS. COLTS will not discriminate against any bidder because of race, color, religion, sex, or national origin. Any firm or person who enters into a contract with COLTS must agree to comply with any and all FTA and Commonwealth of PA laws regarding the prohibition of discrimination. All proposers, by submitting a proposal, shall accept the affirmative duty to ascertain and comply with such laws.

Copies of the RFP package can be requested by e-mail at [kmcandrew@coltsbus.com](mailto:kmcandrew@coltsbus.com) or obtained from our website, [coltsbus.com](http://coltsbus.com). All questions regarding the RFP are to be directed to Timothy McGrath at [tmcgrath@coltsbus.com](mailto:tmcgrath@coltsbus.com) and Katie McAndrew at [kmcandrew@coltsbus.com](mailto:kmcandrew@coltsbus.com).

One (1) original and three (3) copies of the proposal must be submitted in the format outlined and marked "Transit Advertising Program." Completed proposal package are due at the offices of COLTS no later than noon (12 PM E.S.T.) on January 31, 2024. Proposals should be addressed to:

**Transit Advertising Program RFP  
COLTS  
800 North South Road  
Scranton, PA 18504**

Proposals received later than noon (12:00 PM E.S.T) on January 31, 2024 shall be rejected. COLTS reserves the right to postpone, accept or reject any and all proposals, in whole or in part, or to waive any and all informalities as it deems in its best interest. Any person or firm on the list of ineligible contractors for state & federally assisted projects is not an eligible proposer. The Authority solicits and encourages Disadvantaged Business Enterprise and Small Business participation and as such will be afforded full consideration and will not be subject to discrimination.

## 1. Submission Instructions

COLTS desires to contract with a qualified proposer for the sale and servicing of exterior and interior advertising space on COLTS' active fleet and at bus shelter locations. COLTS reserves the right to reject any and all proposals as a result of this request or to negotiate separately with competing proposers.

### 1.1 Quantity

The proposer shall submit one (1) original and three (3) copies of its proposal. Any attachments or supplemental material will only require a single copy.

### 1.2 Due Date

In order to be considered, proposals must be received at COLTS' administrative office by noon (12p.m. EST) on January 31, 2024. Failure by the U.S. Postal Service or other delivery service used to deliver proposals on time shall result in the proposal not being opened or considered. Proposals should be clearly marked "Transit Advertising Program RFP and delivered to:

Katie McAndrew  
Transit Advertising Program RFP  
County of Lackawanna Transit System  
(COLTS)  
800 North Routh Road  
Scranton, PA 18504

### 1.3 Proprietary Information

Any information contained in the proposal that the proposer considers proprietary must be clearly identified as such. COLTS will respect requests for non-disclosure of proprietary information to the extent that information so restricted conforms to the Freedom of Information Act and the Pennsylvania Sunshine Laws.

### 1.4 Forms

Appendices A, B & C of this solicitation contain certain forms that are mandatory in the proposal process. These forms must be executed and submitted in their exact format in order for the proposal to be considered responsive. Precise, unedited computer reproductions to expedite the proposal preparation process are acceptable.

### 1.5 Availability of Electronic Version of this Document

The Request for Proposal and all related forms contained herein are available electronically in

Portable Document Format (PDF). Interested parties who desire an electronic copy of this document should contact Katie McAndrew or can obtained from our web site, coltsbus.com. Files will be sent via e-mail to the requesting party. COLTS does not warrant the integrity or format accuracy of any file or document sent in this manner.

## 2. Questions Concerning the Project

### 2.1 Verbal and Written Questions

Prospective proposers are encouraged to submit substantive questions, comments, and concerns in writing. Written questions no later than 3 p.m. EST on December 29, 2023 will be answered in writing and distributed via addendum to those listed on the RFP distribution list, including those firms who registered after obtaining a copy of the RFP from coltsbus.com. Questions should be addressed to Timothy McGrath (tmcgrath@coltsbus.com) and Katie McAndrew (kmcandrew@coltsbus.com) at COLTS, 800 North South Road, Scranton, PA 18504. E-mailed questions will be considered written; however, no telephone solicitations will be honored.

## 3. On-Site Interviews

COLTS reserves the right to conduct on-site interviews with one or more of the top ranked proposers as part of the evaluation and selection process.

## 4. Proposal Format

### 4.1 General

COLTS desires to contract with a qualified proposer for the sale and servicing of exterior advertising space on COLTS' active fleet and at bus shelter locations. The initial contract period of performance shall be for three years. There will be two additional one year options which may be executed by COLTS at its discretion. COLTS reserves the right to reject any and all proposals received as a result of this request or to negotiate separately with competing proposers.

### 4.2 Submission of Supplemental Material

Proposers will be permitted to submit any additional information they consider relevant to the project scope of work and the project at hand. Such supplemental materials, if submitted, should be in addition to the proposal, not contained in the proposal itself. Only one copy of any supplemental material should be submitted.

### 4.3 Minimum Requirements – Technical Proposal

At a minimum, each technical proposal should contain the following elements organized in the following fashion and in the order listed.

- **Cover:** RFP project title and proposer's name
- **Letter of Transmittal:** This letter must include the name, address, and phone number of the proposer's contact person and that of the firm and the period of time for which the offer will be honored, which should be at least 90 days from the date of the proposal. One original must be signed by an authorized officer of the proposer.
- **Official proposal form:** See Appendix B
- **Table of Contents**
- **Proposal:** The proposal shall be a comprehensive, accurate and effective presentation. Three (3) copies should be submitted. The proposal shall be submitted on 8 ½" x 11" paper with foldouts as required. No more than 30 sheets (60 pages) should be contained in the proposal and printing on both sides of the sheets will be permitted.
- **Section 1 – Firm Profile:** The proposer should include a company history including the size of the firm, the qualifications of key personnel assigned to this project, and the location of the office that will service this proposal. If the proposer is a joint venture or consortium, the qualifications of each firm comprising the joint venture or consortium should be separately identified and firm that is to serve as principal should be noted, if applicable.
- **Section 2 – Experience:** The proposer should state the length of time it has provided advertising sales and management services requested in this RFP and specifically highlight any transit advertising experience. The proposer should also include five references (business name, contact person, address, phone number, and e-mail address) for which similar work has been performed. The proposer shall also include a sample printed ad in similar size and quality to those that would be placed in COLTS' buses.
- **Section 3 – Work Plan:** The proposer should include an explanation of its marketing strategies to promote transit advertising; and include a cost schedule for print services provided to potential customers.
- **Section 4 – Revenue Outline Form:** See Appendix C. This form requires the proposer to list the annual guaranteed dollar minimum and minimum revenue share percentage. The initial contract period of performance shall be for three years. There will be two additional one year options which may be executed by COLTS at its discretion. The County of Lackawanna Transit System will not be responsible for expense incurred in preparing and submitting the proposal. Such costs should not reduce any revenue listed on Appendix C.
- **Section 5 – Appendix A:** The proposer must indicate its compliance with certain Federal and State Executive orders, laws, statutes, and regulations to be considered for award. The proposer must also provide proof that it has registered with SAM.gov (System for Award Management) (<https://sam.gov/content/home>)

## 5. Disadvantaged Business Enterprise

If not addressed under subcontractors, please identify any participation in the project by a disadvantaged business enterprise. A listing of all certified DBE firms in the Commonwealth of Pennsylvania can be viewed at [www.paucp.com](http://www.paucp.com).

The County of Lackawanna Transit System (COLTS) has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. COLTS has received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, COLTS has signed an assurance that it will comply with 49 CFR Part 26.

It is the policy of COLTS to ensure that DBEs as defined in Part 26 have an equal opportunity to receive and participate in DOT-assisted contracts. It is also our policy:

1. To ensure nondiscrimination in the award and administration of DOT-assisted contracts;
2. To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
3. To ensure that the DBE Program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
5. To help remove barriers to the participations of DBEs in DOT-assisted contracts;
6. To assist in the development of firms that can compete successfully in the market place outside the DBE Program.

The COLTS' Executive Director has been delegated as the DBE Liaison Officer. In that capacity, the Executive Director is responsible for implementing all aspects of the DBE Program. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by COLTS in its financial assistance agreements with the Department of Transportation.

COLTS has disseminated this policy statement to the Board of Directors and all of the components of our organization. We have distributed this statement to DBE and non-DBE business communities that perform work for us on DOT-assisted contracts. COLTS' policy statement will appear in local and transit-oriented publications once a year and will be included in all Requests for Proposals and Invitations for Bids; questions related to COLTS' DBE program should be directed to Timothy McGrath, DBE Liaison Officer, at [tmcgrath@coltsbus.com](mailto:tmcgrath@coltsbus.com).

## 6. Contract

## 6.1 Award of Contract

COLTS anticipates award of a contract at its regularly scheduled Board meeting on May 22, 2024. A Notice to Proceed is anticipated within one (1) month, following receipt of necessary documentation, such as insurance certificates from the selected proposer.

## 7. Evaluation Methodology

### 7.1 Evaluation Criteria

Proposals for this project shall be evaluated by a committee using the following rank-ordered criteria with their respective weights:

- **Proposer Experience – 35%** This category includes responses from references and qualifications of the firm, including experience in the transit industry.
- **Revenue Outline – 35%** This category includes the guaranteed annual minimum dollars and the minimum revenue share percentage for the three-year contract term (with two optional years added at COLTS' discretion).
- **Proposed Work Plan – 30%** This category includes the proposed marketing plan to promote transit advertising, and pricing for print services.

### 7.2 Evaluation Committee

COLTS shall form an Evaluation Committee for this solicitation. Proposers shall not contact any member of the Evaluation Committee during this procurement other than the contact name specified in the RFP.

Each committee member will review all proposals individually and complete an evaluation form. Once all forms are completed and tabulated, the committee will convene to recommend a proposer to the COLTS' Board of Directors. Interviews between the committee and finalists may or may not be necessary.

The committee reserves the right to accept or reject any or all proposals.

## 8. Proposal Summary

### Procurement Schedule (Tentative)

Advertisement of Request for	November 1, 2023
Proposal Release Date for RFP	November 1, 2023
Deadline for written questions	December 29, 2023
Proposals due	January 31, 2024
Contract Award / Notice to Proceed	May 22, 2024

## 9. Project Goals

### 9.1 General Goals

COLTS desires to contract with a qualified firm for the sale and servicing of exterior and interior advertising space on COLTS' active fleet and at bus shelter locations. The initial contract period of performance shall be for three years. There will be two additional one-year options which may be executed by County of Lackawanna Transit System at its discretion.



## 10. Bus Shelter Advertising Program

### 10.1 Goals

Advertising will be permitted on all shelters identified in this RFP. These locations will become the standard locations for placement ads on the city-wide shelters and (benches if available), through the term of the agreement. The successful proposer would maintain, install, and display advertising for all shelters. COLTS reserves the right to close or add specific shelter(s) as required due to, among other reasons, route changes and lack of passenger use. COLTS reserves the right to utilize the inside of one Plexiglas panel on each shelter for schedule and route information.

### 10.2 Locations of Existing Bus Shelters

The following is a list of current shelters (municipality and street location). Additional shelter locations will be determined by COLTS.

Current locations:

1. Scranton: Wyoming Ave. at Mulberry St.
2. Scranton: Scranton High School
3. Scranton: 100 block of Wyoming (on the Oppenheim side)
4. Scranton: 100 block of Wyoming Ave. (in front of Lackawanna County Government Center)
5. Scranton: Radisson Hotel
6. Scranton: North Washington Ave. at Pine St.
7. Scranton: South Main Ave. at Fellows Park
8. Dickson City: 300 Block of Main St.
9. Dickson City: Viewmont Mall (near Applebee's Entrance)
10. Dunmore: North Blakely St./O'Neill Highway across from Burger King
11. Dunmore: South Blakely St. at St. Joe's (in front of Police Station)
12. Blakely: 101 Main St. at Dr. Scanland's (across from anchor and Rite-Aid)
13. Archbald: Kennedy Drive at Main St. (in front of Post Office and NBT Bank)
14. Jermyn: Washington Ave. (at entrance to Wright Center)

### 10.3 Shelter Description

Standard transit shelters are pre-fabricated structures constructed of glass, Plexiglas, plastic, and metal secured to a concrete pad.

## 10.4 Maintenance Plan (for all assets: Shelters & Vehicles)

### Maintenance of Advertisements:

- The Contractor shall be solely responsible to keep and maintain all the displayed ads in good condition.
- Production, supply, installation and maintenance of advertisements; all advertising materials displayed on COLTS' available assets shall be of a quality so as to maintain an attractive appearance and to withstand the elements and general asset maintenance (e.g. cleaning)
- Remove unapproved or damaged ads within 24 hours of written notice.
- The successful proposer will provide COLTS with a report detailing sales and inventory by the 10th of each month.
- Remove all dated advertising materials within five (5) calendar days from its expiration date. "Dated materials" refers to advertising materials that are relevant to a specific time period or relevant to an event that has been completed; all advertisements must be kept up to date.

## 10.5 Additional Requirements

- Any unsold spaces will become available to COLTS for the purpose of inserting self-promotion signs. With COLTS' approval, these signs may be removed by the vendor to clear space for paid advertising.
- COLTS shall retain the right to use a number of assets for promotional use, including cooperative campaigns with either public agencies or private businesses. (see Section 13.4)
- All advertisements must contain the disclaimer: "The following views and/or opinions expressed by the advertiser are not necessarily those of COLTS."
- COLTS has a schedule for replacement of many of its bus shelters. At any point that a shelter is replaced, the advertising sign or poster will need to be removed from the old shelter and placed on the new shelter at the advertiser's cost.

## 11. Bus Advertising Program

### 11.1 Goals

The successful proposer shall provide art, production, installation, and removal of advertising on the exterior of COLTS' active revenue fleet in accordance with COLTS' related procedures and policies. COLTS reserves the right to pre-approve and if necessary remove any and all advertising that does not comply with COLTS' related procedures and policies. (See section 13.3 COLTS Advertising and Appendix D – COLTS Advertising Policy)

### 11.2 Advertising Space

COLTS' fixed route revenue fleet is comprised of (33) 35' buses. COLTS also has a fleet of (33) paratransit vans that are approx. 25' in length.

Currently, there are three sizes available for exterior advertising on 33 of COLTS' 35' buses. They are as follows:

- King: 30" x 144" (driver's side of bus)
- Queen: 30" x 88" (entrance side of bus)
- Tail: 23" x 43" (back end of bus)

All exterior advertisements are secured to the bus using adhesive decal. COLTS reserves the right to remove any advertising that is no longer securely fastened and would constitute a hazard to the public or become a hazard to operate or maintain the bus.

There are two sizes available for exterior advertising on 33 of COLTS' paratransit vans. They are as follows:

- Driver's side of van: 18" x 130"
- Entrance side of van: 18" x 130"
- Driver's side of van: 24" x 130"
- Entrance side of van: 24" x 105"

The exterior advertisements on the paratransit vans must be an adhesive decal.

Interior Advertising Cards composed of polystyrene material are also an option on the COLTS fixed route fleets. The sizes are as follows:

- Small: 11" x 24"
- Medium: 11" x 48"
- Large: 11" x 72"

Full bus wraps and half bus wraps are another advertising option on all of COLTS' fleet.

The successful proposer will be responsible for the sale, design and production of these wraps. All wrap designs must be pre-approved before production may commence. While the cost of the installation and removal of the wraps is the responsibility of the successful proposer, the timing of the installation and removal of the wraps must be coordinated with COLTS so as not to disrupt service.

Any damage to COLTS' buses or property during the installation and removal of any advertisements is the successful proposer's responsibility.

### 11.3 Additional requirements

The removal of monthly ads must take place in a timely manner and all advertisements must be kept up to date.

The successful proposer will provide COLTS with a report detailing sales and inventory by the 10th of each month.

All advertisements must contain the disclaimer: "The following views and/or opinions expressed by the advertiser are not necessarily those of COLTS."

## 12. Compensation

### 12.1 Revenue Outline

The proposer shall fill out Appendix C (R-S) & (B-S), which requires that compensation be calculated in two ways. First, the proposer must calculate a Minimum Annual Guarantee in dollars and second, as a percentage guarantee of annual advertising revenue derived per display on each shelter or bus/van. If a proposer wishes to use the same gross revenue percentage for bus advertisements and for shelter advertisements, a proposer must still submit the two revenue outline forms which are clearly labeled identifying one for buses/vans (R-S) and one for shelters (B-S). Annual revenue for years 4 and 5 for both rolling stock and shelter revenue methods will be negotiated prior to contract renewal. Contractor shall make monthly payments to COLTS. Said monthly payments shall be made by the 10th working day of each month. Payment shall be for all amounts due to COLTS for the preceding month and shall be based on the compensation structure set forth in the RFP and final signed contract. Said monthly payments shall be accompanied by a

schedule which shows the advertisements which were displayed, the gross revenue earned for the advertisement, and the amount of revenues to be earned in the future under existing contracts. A payment not made within (10) days of the due date may be subject to a 5% late fee.

### 12.2 Insurance Coverage

The successful proposer shall procure and maintain for the duration of the contract insurance against claims for injury to persons or damages to property which may arise from or in connection with the performance of work hereunder by the successful proposer, its agents, representatives, employees, or subcontractors.

The successful proposer will be required to submit a Certificate of Insurance duly attested by officers or authorized representatives of the responsible insurance company authorized to do business in Pennsylvania, evidencing that it had obtained coverage herein required. The Certificates of Insurance must identify the types of insurance, the party to be benefited, the effective dates of the insurance, the limits of liability for both bodily injury, including death, and property damage, a paragraph pertaining to collapse and explosive hazards, a clause requiring thirty (30) days advance written notice to COLTS of cancellation, and a specific reference to the location and nature of the work.

COLTS must be identified on the Certificate of Insurance as an additional insured to this coverage.

### 12.3 Commercial General Liability

The successful proposer shall maintain no limits less than \$1 million combined single life occurrence for bodily injury, personal injury and property damage (or higher depending on the size of the contract).

### 12.4 Automobile Liability

The successful proposer shall maintain no limits less than \$1 million combined single life occurrence for bodily injury, personal injury and property damage.

## 13. General Information

### 13.1 COLTS History

The County of Lackawanna Transit System, or COLTS, was formed in October 1972 under the Municipal Authorities Act of 1945. COLTS was officially certified by the state as a municipal authority in November 1972.

COLTS currently provides the Scranton urbanized area with scheduled mass transportation bus service in Lackawanna County. COLTS runs 26 daily fixed routes from 5:30 a.m. to 12:55 a.m. Monday through Friday, and 23 routes from 7:45 a.m. to 12:55 a.m. on Saturday. (Not all routes run during these times.)

COLTS' ADA paratransit service (Special Efforts Accessibility Transportation System) for individuals who have a disability that prevents them from using the fixed route bus system. COLTS also provides Senior Shared Ride, Medical Assistance Transportation Program (MATP), and Persons with Disabilities (PWD) programs.

### 13.2 COLTS Advertising

The County of Lackawanna Transit System (COLTS) operations are funded by federal, state and local funds including grants as well as fare box revenue. Advertising revenues are an important additional source of revenue that supports the COLTS operations. As such, COLTS will accept advertising on its transit vehicles, facilities and publications. (Please see Appendix D - COLTS Advertising Policy)

### 13.3 Proposer's Responsibilities

(All proposer responsibilities are outlined in this specification under Section 2 and as follows)  
Services provided by the PROPOSER shall include, but are not limited to the following:

- Marketing/selling of bus advertising
- Installation and maintenance of bus advertising
- Account, executive and administrative management
- Receipt of payment from advertisers
- Provide monthly reports detailing sales and inventory of all ads
- Provide updated cost schedules regarding the production of the ads
- Submit to COLTS' Director of Business Communications and Development the design of all bus wraps prior to production
- Adhere to advertisement(s) maintenance plan
- Comply with COLTS' policies and procedures
- Require access to buses that will not interfere or disrupt service or maintenance schedules
- Maintain required insurance coverage
- Other work as may be necessary to comply with requirements contained in the agreement.

#### 13.4 COLTS' Responsibilities

COLTS will:

- Provide a single point of contact once a contract has been negotiated.
- Reserve the right to review any and all advertisements whether they are placed on shelters or buses
- Reserve the right to remove any ads that violate COLTS' policies and procedures.  
(See Section 13.3 COLTS Advertising and Appendix D – COLTS Advertising Policy)
- Provide access to vehicles for the successful proposer to install and remove all ads.

#### 13.5 Additional Important Information

- All existing contracts for advertising on buses and shelters and such contracts will remain the property of COLTS with no financial obligation or liability to contractor.
- If requested and approved in writing by COLTS, contractor may utilize unsold advertising space to further sale of such space.
- Space availability for advertising on COLTS vehicles may change during the period of this Agreement for reasons including, but not limited to, the acquisition of new vehicles, the retiring of old vehicles or new bus designs or configurations which do not allow for exterior advertising capability.
- COLTS reserves the right to use any unsold exterior bus advertising space for its exclusive use for any advertising or promotion or purpose it deems to be in the interests of COLTS, with the understanding upon notification and COLTS approval these signs may be removed by the vendor to clear space for paid advertising. Production of any advertising materials for this purpose is the responsibility of COLTS.

## **APPENDIX A – REQUIRED FORMS AND CERTIFICATIONS**

### **THE FOLLOWING PROVISIONS ARE INCLUDED IN ALL FTA-FUNDED SMALL PURCHASE PROCUREMENTS AND ABOVE (WITH APPLICABLE DOLLAR THRESHOLD NOTED):**

#### **1. NO GOVERNMENT OBLIGATIONS TO THIRD PARTIES:**

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

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

#### **2. PROGRAM FRAUD AND FRAUDULENT STATEMENTS:**

The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. §3801 et seq. and U.S. DOT regulations, “Program Fraud Civil Remedies,” 49 C.F.R., Part 31, apply to its actions pertaining to this contract. The Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to this 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 causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor or its subcontractors 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 to [RECIPIENT] under 49 U.S.C. § 5307, the Government reserves the right to impose the 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 financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

#### **3. FRAUD, WASTE, ABUSE OR OTHER LEGAL MATTERS NOTIFICATION TO FTA AND U.S. DOT INSPECTOR GENERAL:**

If a current or prospective legal matter that may affect the Federal Government emerges, the Contractor must promptly notify the FTA Chief Counsel and the FTA Region III Counsel. The Contractor must include a similar notification requirement in its subcontract agreements at every tier for any agreement that is a “covered transaction” according to 2 C.F.R. §§ 180.220 and 1200.220.

(a) The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason.

(b) Matters that may affect the Federal Government include, but are not limited to, the Federal Government’s interests in the Award, the accompanying Underlying Agreement, and any Amendments thereto, or the Federal Government’s administration or enforcement of federal laws, regulations, and

requirements.

(c) Additional Notice to U.S. DOT Inspector General. The Contractor must promptly notify the U.S. DOT Inspector General in addition to the FTA Chief Counsel or the FTA Region Counsel, if the Contractor has knowledge of potential fraud, waste, or abuse occurring on a Project receiving assistance from FTA. The notification provision applies if a person has or may have submitted a false claim under the False Claims Act, 31 U.S.C. § 3729, et seq., or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bid rigging, misappropriation or embezzlement, bribery, gratuity, or similar misconduct involving federal assistance. This responsibility occurs whether the Project is subject to this Agreement or another agreement between [RECIPIENT] and FTA, or an agreement involving a principal, officer, employee, agent, or Third-Party Contractor of County of Lackawanna Transit System. It also applies to subcontractors at any tier. Knowledge, as used in this paragraph, includes, but is not limited to, knowledge of a criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of the Contractor. In this paragraph, "promptly" means to refer information without delay and without change. This notification provision applies to all divisions of the Contractor, including divisions tasked with law enforcement or investigatory functions.

#### 4. AUDIT AND INSPECTION OF BOOKS AND RECORDS

a. Audit and Inspection. The Contractor shall permit the authorized representatives of County of Lackawanna Transit System, U.S. Department of Transportation, the Pennsylvania Department of Transportation and the Comptroller General of the United States to inspect and audit all data and records of the Contract or relating to its performance and its subcontracts under this Contract from the date of the Contract and for three (3) years after completion or termination of the Contract.

b. Record Retention. The Contractor further agrees to include in all their subcontracts hereunder a provision to the effect that the subcontractor agrees that County of Lackawanna Transit System, the U.S. Department of Transportation, the Pennsylvania Department of Transportation and the Comptroller General of the United States or any of their duly authorized representatives shall, until the expiration of three (3) years after final payment under the subcontract, have access to and the right to examine any directly pertinent books, documents, papers, and records of each Subcontractor, involving transactions related to the Subcontractor. The term "Subcontractor" as used in this clause excludes: (1) Purchase Orders not exceeding \$10,000; and (2) subcontracts or Purchase Orders for public utility services at rates established for uniform applicability to the general public.

5. NOTICE OF FEDERAL REQUIREMENTS: The Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed herein, as they may be amended or promulgated from time to time during the term of this contract, unless the Federal Government determines otherwise. The Contractor's failure to so comply shall constitute a material breach of this contract. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any County of Lackawanna Transit requests which would cause County of Lackawanna Transit System to be in violation of the FTA terms and conditions.

6. EQUAL EMPLOYMENT OPPORTUNITY: In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. ¶ 2000e, and Federal transit laws at 49 U.S.C. ¶ 5332, the Contractor and its subcontractors agree to comply with all applicable equal employment opportunity requirements in the U.S. Department of Labor regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq. and any implementing requirements the FTA may issue, including the Equal Employment Requirements for Construction Activities. The Contractor and its subcontractors agree that it shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity or



national origin. The Contractor and its subcontractors shall take affirmative action to ensure that applicants are employed, and the employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity or national origin. Such action shall include but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, lay-off or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

7. TITLE VI OF THE CIVIL RIGHTS ACT OF 1964: During the performance of this contract, the Contractor and its subcontractors shall comply with all requirements prohibiting discrimination against any employee or applicant for employment on the basis of race, color, creed, sex, age, disability or national origin in accordance with Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. ¶ 2000d; Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. ¶¶ 1681-1683, 1685-88, with implementing U.S. DOT regulations, “Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance,” 49 C.F.R. Part 25; Section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. ¶ 6102; Section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. ¶¶ 623 and Federal transit law at 49 U.S.C. ¶ 5332; Section 202 of the American With Disabilities Act of 1990, 42 U.S.C. ¶ 12132; Federal transit law at 49 U.S.C. ¶ 5332; and U.S. DOT regulations, “Nondiscrimination in Federally-Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act,” 49, C.F.R. Part 21, and any implementing requirements FTA may issue.

8. DISADVANTAGED BUSINESS ENTERPRISES:

**NOTE: - SECTION 8.A. SHALL BE INCLUDED IN SMALL PURCHASE PROCUREMENTS.**

**SECTION 8.B. SHALL BE INCLUDED IN PUBLICLY ADVERTISED PROCUREMENTS WHERE A DBE CONTRACT GOAL HAS NOT BEEN ESTABLISHED (RACE/NEUTRAL PROCUREMENT). IF SECTION 8B IS SELECTED, THEN CERTIFICATES 5 -1 AND 5-3 WILL BE USED.**

**SECTION 8.C. SHALL BE INCLUDED IN PUBLICLY ADVERTISED PROCUREMENTS WHERE A DBE CONTRACT GOAL HAS BEEN ESTABLISHED (RACE/CONSCIOUS PROCUREMENT). IF SECTION 8C IS SELECTED, THEN CERTIFICATES 5-2 AND 5-3 WILL BE INCLUDED.**

**THE DETERMINATION OF WHETHER A PROCUREMENT INCLUDES OR DOES NOT INCLUDE A CONTRACT GOAL IS MADE IN ACCORDANCE WITH THE PROCESS DESCRIBED IN [RECIPIENT]’S DBE PROGRAM. ADDITIONAL DETAILS REGARDING [RECIPIENT]’S ADMINISTRATION OF THE DBE PROGRAM FOR A PROCUREMENT WILL BE DESCRIBED IN THE INSTRUCTIONS TO BIDDERS/PROPOSERS IN ACCORDANCE WITH THE [RECIPIENT] DBE PROGRAM.**

**THESE DBE CLAUSES ARE NOT USED FOR ROLLING STOCK PROCUREMENTS. [RECIPIENT] WILL REQUIRE EACH TRANSIT VEHICLE MANUFACTURER, AS A CONDITION OF BEING AUTHORIZED TO BID OR PROPOSE ON FTA-ASSISTED TRANSIT VEHICLE PROCUREMENTS, TO CERTIFY THAT IT HAS COMPLIED WITH 49 CFR PART 26.49.**

A. DISADVANTAGED BUSINESS ENTERPRISE. The Contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient

deems appropriate.

County of Lackawanna Transit Systems solicits and encourages participation by Disadvantaged Business Enterprises. DBEs shall be afforded full consideration of their response and will not be subject to discrimination.

**B. DISADVANTAGED BUSINESS ENTERPRISE.** The Contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

County of Lackawanna Transit System solicits and encourages participation by Disadvantaged Business Enterprises. DBEs shall be afforded full consideration of their response and will not be subject to discrimination.

The Contractor shall submit Certificate 5-1, "Disadvantaged Business Enterprise Certification", with its bid or proposal and the information requested on Certificate 5-3 if the Contractor and/or a subcontractor(s) is a Disadvantaged Business Enterprise.

**C. DISADVANTAGED BUSINESS ENTERPRISE.** The Contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

County of Lackawanna Transit System solicits and encourages participation by Disadvantaged Business Enterprises. DBEs shall be afforded full consideration of their response and will not be subject to discrimination.

For this contract, County of Lackawanna Transit System has established a DBE goal of 1.2% of the total project cost. Consequently, County of Lackawanna Transit System will award the contract only to a Contractor who makes good faith efforts to meet the DBE goal. A Contractor can demonstrate that it has made good faith efforts by meeting the DBE goal or documenting its good faith efforts as described in 49 CFR Part 26.53 and in 49 CFR Part 26, Appendix A. The Contractor shall submit Certificate 5-2, "Disadvantaged Business Enterprise Certification", with its bid or proposal, the information requested on Certificate 5-2 as applicable and/or documentation of its good faith efforts as applicable. Certificate 5-3, "Affidavit of Disadvantaged Business Enterprise", shall be completed by a DBE eligible contractor or subcontractor(s) to certify to its eligibility. The completed Certificate 5-3 shall be submitted with the Contractor's bid or proposal.

**9. FTA TERMS AND DEFINITIONS:** All applicable contractual provisions required by the FTA, including definitions and terminology as set forth in FTA Circular C.4220.1F (March 18, 2013), or its successor and the current FTA Master Agreement as presented on the FTA website shall be incorporated into the contract by reference.

**10. ENERGY CONSERVATION REQUIREMENTS:** Contractor agrees to recognize and comply with the mandatory standards and policies relating to energy efficiency that are contained in the Pennsylvania State Energy Conservation Plan issued in compliance with the Energy Policy and Conservation Act 42 U.S.C. ¶ 6321 et seq.

**11. ENVIRONMENTAL PROTECTION:** The Contractor and its subcontractors agree to comply with all

applicable requirements and implementing regulations of the National Environmental Policy Act of 1969, as amended, (NEPA) 42 U.S.C. " §§ 4321 through 4335 (as restricted by 42 U.S.C. § 5159, if applicable), Executive Order No. 11514, as amended, "Protection and Enhancement of Environmental Quality," 42 U.S.C. § 4321 note; FTA statutory requirements on environmental matters at 49 U.S.C. § 5324(b); U.S. Council on Environmental Quality regulations on compliance with NEPA, 40 C.F.R. Parts 1500 through 1508; joint FHWA/FTA regulations, "Environmental Impact and Related Procedures," 23 C.F.R. Part 771 and 49 C.F.R. Part 622; and other applicable Federal environmental protection regulations that may be promulgated at a later date.

12. MITIGATION OF ADVERSE ENVIRONMENTAL EFFECTS: Should the Project cause or result in adverse environmental effects, the Contractor agrees to assist [RECIPIENT] in taking all reasonable measures to minimize those adverse effects as required by 49 U.S.C. ¶ 5324(b), and other applicable Federal laws and regulations.

13. PROHIBITED INTEREST: No member, officer, or employee of County of Lackawanna Transit System, during their tenure or for one year thereafter, shall have any interest, direct or indirect, in this contract or the proceeds therefrom. County of Lackawanna Transit System's officers, employees or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements.

14. INTEREST OF MEMBERS OR DELEGATES TO CONGRESS: No member or delegate to the Congress of the United States shall be admitted to any share or part of this contract or receive any benefit arising therefrom.

15. FLY AMERICA: The Contractor understands and agrees that the Federal Government will not participate in the costs of international air transportation of any persons involved in or property acquired for the Project unless that air transportation is provided by U.S. flag air carriers to the extent service by U.S.-flag air carriers is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974, as amended, 49 U.S.C. ¶ 40118 (the "Fly America" Act), and with U.S. GSA regulations, "Use of United States Flag Air Carriers," 41 C.F.R. ¶¶ 301-10.131 through 301-10.143.

16. SEAT BELT USE. Pursuant to Executive Order No. 13043, April 16, 1997, 23 U.S.C. ¶ 402 (62 Fed. Reg. 19217), the Contractor and its subcontractors shall adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company-rented vehicles, or personally-operated vehicles.

17. PROTECTION OF SENSITIVE SECURITY INFORMATION. The Contractor shall protect, and take measures to ensure its subcontractors at each tier protect, "sensitive security information" made available during the administration of a third party contract or subcontract to ensure compliance with 49 U.S.C. Section 40119(b) and implementing DOT regulations, "Protection of Sensitive Security Information," 49 CFR Part 15, and with 49 U.S.C. Section 114(s) and implementing Department of Homeland Security regulations, "Protection of Sensitive Security Information," 49 CFR Part 1520. In accordance with 49 U.S.C. Section 40119(b)(1), "sensitive security information" is information obtained or developed in the conduct of security activities, including research and development. The information, and records containing such information, that constitute "sensitive security information" is further defined in 49 CFR Part 15.5.

18. TRAFFICKING IN PERSONS. The Contractor, its subcontractors and the employees of the Contractor and its subcontractors that are participating in the Project that is the subject of this Contract and during the period this Contract is in effect may not engage in severe forms of trafficking in persons, procure a commercial sex act or use forced labor in the performance of the Contract. [RECIPIENT] may unilaterally terminate the Contract for the Project, without penalty to [RECIPIENT], if the Contractor, its subcontractors and the employees of the Contractor and its subcontractors are determined to have violated this prohibition. This provision implements the requirements of subsection 106(g) of the Trafficking

Victims Protection Act of 2000, as amended, 22 U.S.C. ¶ 7104(g) and U.S. OMB guidance, "Award Term for Trafficking in Persons," 2 C.F.R. Part 175.

19. TEXT MESSAGING WHILE DRIVING. In accordance with Executive Order No. 13513, "Federal Leadership on Reducing Text Messaging While Driving," October 1, 2009, 23 U.S.C.A. § 402 note (74 Fed. Reg. 51225); DOT Order 3902.10, "Text Messaging While Driving," December 30, 2009; and U.S. DOT Special Provision pertaining to Distracted Driving, the Contractor is encouraged to comply with the terms of the following Special Provision.

a. Definitions. As used in this Special Provision:

(1) "Driving" means operating a motor vehicle on a roadway, including while temporarily stationary because of traffic, a traffic light, stop sign, or otherwise. "Driving" does not include being in your vehicle (with or without the motor running) in a location off the roadway where it is safe and legal to remain stationary.

(2) "Text Messaging" means reading from or entering data into any handheld or other electronic device, including for the purpose of short message service texting, e-mailing, instant messaging, obtaining navigational information, or engaging in any other form of electronic data retrieval or electronic data communication. The term does not include the use of a cell phone or other electronic device for the limited purpose of entering a telephone number to make an outgoing call or answer an incoming call, unless the practice is prohibited by State or local law.

b. Safety. The Contractor is encouraged to:

(1) Adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers including policies to ban text messaging while driving-

(a) Contractor-owned or Contractor-rented vehicles or Government-owned, leased or rented vehicles; or

(b) Privately-owned vehicles when on official Project related business or when performing any work for or on behalf of the Project; or

(c) Any vehicle, on or off duty, and using an employer supplied electronic device.

(2) Conduct workplace safety initiatives in a manner commensurate with the Contractor's size, such as:

(a) Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving; and

(b) Education, awareness, and other outreach to employees about the safety risks associated with texting while driving.

(3) Include this Special Provision in its sub-agreements with its subcontractors and also encourage its subcontractors to comply with the terms of this Special Provision, and include this Special Provision in any sub-agreement they entered into for the Project.

20. PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT. In accordance with Public Law 115-232, the Contractor shall not supply telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities). Video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities) shall also not be supplied.

## 21. TERMINATION:

**NOTE: THE FOLLOWING GENERAL TERMINATION PROVISIONS ARE APPLICABLE FOR PROCUREMENTS ABOVE \$10,000. FOR [RECIPIENT] PUBLICLY ADVERTISED PROCUREMENTS, THE FOLLOWING GENERAL PROVISIONS MAY BE USED AS THE BASIS OF THE TERMINATION LANGUAGE INCLUDED IN THE PROCUREMENT DOCUMENTS. HOWEVER, THE TERMINATION PROVISIONS FOR PUBLICLY ADVERTISED PROCUREMENTS BEING ADVANCED, I.E. CONSTRUCTION, ARCHITECTURAL/ENGINEERING SERVICES, TRANSPORTATION SERVICES AND**

**SUPPLIES AND SERVICES MAY REQUIRE ADDITIONAL TERMS. (REFERENCE: FTA BEST PRACTICES PROCUREMENT MANUAL). IN PUBLICLY ADVERTISED PROCUREMENTS, THE TERMINATION PROVISIONS WILL LIKELY BE ADDRESSED IN THE SAMPLE CONTRACT. IF THE PROVISIONS ARE INCLUDED IN A SAMPLE CONTRACT, THEN TERMINATION PROVISIONS SHOULD NOT BE INCLUDED IN THIS ATTACHMENT TO AVOID A POTENTIAL CONFLICT IN WORDING.**

A. Termination For Convenience: County of Lackawanna Transit System may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in County of Lackawanna Transit System'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 County of Lackawanna Transit System to be paid the Contractor. If the Contractor has any property in its possession belonging to County of Lackawanna Transit System, the Contractor will account for the same, and dispose of it in a manner County of Lackawanna Transit System directs.

B. Termination for Cause: 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, County of Lackawanna Transit System may terminate this contract for cause. Termination shall be affected by 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 County of Lackawanna Transit System that the Contractor had an excusable reason for not performing, such as strike, fire, flood, acts of terrorism or events which are not the fault of or are beyond the control of the Contractor, County of Lackawanna Transit System, after setting up a new delivery of performance schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.

C. Opportunity to Cure. County of Lackawanna Transit in its sole discretion may, in the case of a termination for cause allow the Contractor a reasonably short period of time in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions.

If the Contractor fails to remedy to County of Lackawanna Transit System's satisfaction the breach or default or any of the terms, covenants or conditions of the Contract during the period given to cure the defect, County of Lackawanna Transit System shall have the right to terminate the Contract without any further obligation to the Contractor. Any such termination for cause shall not in any way operate to preclude County of Lackawanna Transit System from also pursuing all available remedies against the Contractor and its sureties for said breach or default.

D. Waiver of Remedies for any Breach. In the event County of Lackawanna Transit System elects to waive its remedies for any breach by the Contractor of any covenant, term or condition of this Contract, such waiver by County of Lackawanna Transit System shall not limit County of Lackawanna Transit System's remedies for any succeeding breach of that or of any other covenant, term or condition of this Contract.

22. PROTEST AND APPEAL PROCEDURES: County of Lackawanna Transit System has Protest Procedures that are in compliance with 2 CFR Part 200.318(k) and applicable FTA guidelines. County of Lackawanna Transit System's Protest Procedures are described in the solicitation documents provided for this procurement.

23. DEBARRED AND SUSPENDED BIDDERS: The Contractor agrees to comply, and assures the compliance of its subcontractors or a participant at any tier of the Project, with 2 CFR, Part 180, Subpart C, as adopted and supplemented by U.S. DOT regulations at 2 CFR Part 1200. The Contractor, and its applicable sub-contractors, shall not be debarred or suspended except as authorized by U.S. DOT regulations, "No procurement Suspension and Debarment," 2 CFR Part 1200; U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 CFR Part 180, including any amendments thereto; and Executive Orders Nos. 12549 and 12689, "Debarment and Suspension," 31 U.S.D. 6101 note; or other applicable Federal laws, regulations or guidance regarding participation with debarred or suspended third party firms. The Contractor agrees to, and assures that its subcontractors for any lower tier participant will, search the entity records on the System for Award Management ([www.sam.gov](http://www.sam.gov)) before entering into any contractual arrangement in connection with this Project. For any contract and subcontract exceeding \$25,000, the contractor and subcontractor shall submit a debarment and suspension certificate or an explanation as to why the signed certification cannot be provided. (See Certificate 6)

The certification is a material representation of fact upon which reliance was placed when the transaction was entered into. If it is later determined that the contractor or subcontractors knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, [RECIPIENT] may pursue available remedies, including suspension and/or debarment. The contractor or subcontractors shall provide immediate written notice to [RECIPIENT] if at any time the contractor or subcontractors learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

24. RESOLUTION OF DISPUTES:

A. 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 Director of Finance of County of Lackawanna Transit System. This decision shall be final and conclusive unless within ten (10) days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the County of Lackawanna Transit System's Executive Director. 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 County of Lackawanna Transit System's Executive Director shall be binding upon the Contractor and the Contractor shall abide by the decision.

B. Performance During Dispute - Unless otherwise directed by County of Lackawanna Transit System, Contractor shall continue performance under this Contract while matters in dispute are being resolved.

C. Claims for Damages - Should either party to the contract suffer injury or damage to person or property because of any act or omission of the party or any of his employees, agents or others for whom 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.

D. Remedies - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between County of Lackawanna Transit System and the Contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the Commonwealth of Pennsylvania.

E. 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 County of Lackawanna Transit System or its representative shall constitute a waiver of any right or duty afforded any of them under the contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

25. LOBBYING: Section 1352 of Title 31, U.S. Code provides in part that no appropriated funds may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, an employee of a Member of Congress or a member or employee of a State legislature in connection with any of the following covered Federal actions: 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. The Contractor and its subcontractors shall certify that no federal appropriated funds have been expended for the lobbying activities described in Section 1352 of Title 31, U.S. Code. The Contractor and its subcontractors 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 the covered Federal actions as described by 31 U.S.C. 1352. For any contract and subcontract exceeding \$100,000, the Contractor and subcontractor(s) will submit a Lobbying Certificate. (See Certificate 4).

Contractors and subcontractors who engage in lobbying activities are required to submit Standard Form—LLL (SF-LLL), “Disclosure of Lobbying Activities” in accordance with Section 1352 of Title 31, U.S. Code. SF-LLL to County of Lackawanna Transit System. County of Lackawanna Transit System is responsible for keeping the certification of the Contractor, who is in turn responsible for keeping the certification forms of subcontractors. Contractor shall ensure that all of its Subcontractors under this Contract shall certify the same.

26. CLEAN AIR REQUIREMENTS: For all contracts and subcontracts in excess of \$150,000, the Contractor and its subcontractors agree to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. 7401 et seq. The Contractor and its subcontractors agree to report the use of facilities placed or likely to be placed on EPA’s “List of Violating Facilities”, refrain from using violating facilities and report each violation to County of Lackawanna Transit System and County of Lackawanna Transit System will, in turn, report each violation as required resulting from any project implementation activity of a contractor or itself to FTA and appropriate U.S. EPA Regional Office as provided in Section 114 of the Clean Air Act, as amended, 42 U.S.C. ¶ 7414, and other applicable provisions of the Clean Air Act, as amended, 42 U.S.C. ¶¶ 7401 et seq..

27. CLEAN WATER REQUIREMENTS: For all contracts and subcontracts in excess of \$150,000, the Contractor and its subcontractors agree to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. ¶ 1251 et seq. The Contractor and its subcontractors agree to report the use of facilities placed or likely to be placed on EPA’s “List of Violating Facilities”, refrain from using violating facilities and report each violation to County of Lackawanna Transit System and County of Lackawanna Transit System will, in turn, report each violation as required resulting from any project implementation activity of a contractor or itself to FTA and appropriate U.S. EPA Regional Office as provided for in Section 308 of the Federal Water Pollution Control Act, as amended, 33 U.S.C. ¶ 7414, and other applicable provisions of the Clean Air Act, as amended, 42 U.S.C. ¶¶ 7401 et seq.

28. NOTICE OF FEDERAL PARTICIPATION: The Contractor agrees to specify the amount of federal assistance in any subcontract having an aggregate value of \$500,000 or more for goods and services, including construction services, and to express the amount of federal assistance as a percentage of the total cost of that subcontract.

1. DISCRIMINATION ON THE BASIS OF DISABILITY: The Contractor agrees to comply with all applicable requirements of the following federal laws and federal regulations pertaining to discrimination against seniors or individuals with disabilities. The federal laws include: American with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. § 12101 et seq.; Section 504 of the Rehabilitation Act of 1973, as

amended, 29 U.S.C. § 794; Federal transit law, specifically 49 U.S.C. § 5332, which now includes disability as a prohibited basis for discrimination; and the Architectural Barriers Act of 1968, as amended, 42 U.S.C. §§ 4151 et seq.

The federal regulations include:

(A) U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 C.F.R. Part 37;

(B) U.S. DOT regulation, "Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 C.F.R. Part 27;

(C) U.S. DOT regulations, "Transportation for Individuals with Disabilities: Passenger Vessels," 49 C.F.R. Part 39.

(D) Joint U.S. Architectural and Transportation Barriers Compliance Board/U.S. DOT regulations, "Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 C.F.R. Part 1192 and 49 C.F.R. Part 38;

(E) U.S. Department of Justice (DOJ) regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. Part 35;

(F) DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R. part 26;

(G) U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the American with Disabilities Act," 29 C.F.R. Part 1630;

U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled," 47 C.F.R. Part 64, Subpart F;

U.S. ATBCB regulations, "Electronic and Information Technology Accessibility Standards," 36 CFR Part 1194; and

(J) FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 C.F.R. Part 609.

4. LIQUIDATED DAMAGES: Liquidated Damages in the amount of twenty-five dollars (\$25) per calendar day will be assessed against the responsible Contractor for each day after the scheduled completion date the Project is not completed as specified in the contract documents. The Liquidated Damages shall be assessed because the Contractor's failure to perform its specified scope of work will result in added costs or a loss of revenue to County of Lackawanna Transit System. The Contractor shall not be liable if performance failures arise out of causes beyond its control and without the fault or negligence of the Contractor.

**NOTE: WHEN A DETERMINATION IS MADE TO INCLUDE LIQUIDATED DAMAGES IN A PROCUREMENT, THE PER CALENDAR DAY AMOUNT IS CALCULATED BASED ON A CONSIDERATION OF THE DAMAGES AND/OR COSTS INCURRED IF THE CONTRACTOR FAILS TO PERFORM ITS SCOPE OF WORK.**

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Authorized Official & Title

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Date



### **COMMONWEALTH OF PENNSYLVANIA SPECIFIC CONTRACT REQUIREMENTS:**

1. **NON-COLLUSION STATEMENT:** The Antidid-Rigging Act of 1983, 62 Pa.C.S.A. ¶ 4501 et seq., makes it a crime for two or more persons, by concerted activity, to influence the results of a competitive bidding process. A Non-Collusion Statement (Certificate 2) is included in each bid/proposal package and is required to be submitted by each bidder/proposer.
2. **COMMONWEALTH NON-DISCRIMINATION/SEXUAL HARASSMENT CLAUSE:** Each bidder/proposer is requested to certify its compliance with the Commonwealth of Pennsylvania's Non-Discrimination/Sexual Harassment Clause (see Certificate #3).
3. **STEEL PRODUCTS PROCUREMENT ACT OF 1978:** All steel and cast iron products used or supplied in the performance of this Contract shall be products produced from steel made in the United States in conformity with the Commonwealth of Pennsylvania's Steel Products Procurement Act of 1978 (Act No. 3 of 1978, P.L. 6 [73 P.S. ¶ 1881 et seq.]) and in full conformity with the Buy America provisions of 49 U.S.C. ¶ 5323(j) and the applicable regulations in 49 CFR Part 661 unless the Bidder specifically sets forth any exceptions on its Bid Form.
4. **MOTOR VEHICLE PROCUREMENT ACT:** Under the provisions of the Motor Vehicle Procurement Act of 1984, 62 Pa.C.S.A. ¶ 3731 et seq., all motor vehicles purchased, leased or rented shall be manufactured or substantially assembled in North America.
5. **PENNSYLVANIA PREVAILING WAGE ACT:** The Pennsylvania Prevailing Wage Act applies to a public works project that involves construction, reconstruction, demolition, alteration and/or repair work other than maintenance where the estimated cost of the total project is in excess of \$25,000 and there is no federal funding involved in the project.
6. **PROJECT SIGNS:** All reports, and other documents completed as part of this Contract, other than documents prepared exclusively for internal use, shall contain an appropriate notice of financial assistance provided by PennDOT.
7. **CONTRACTOR INTEGRITY:** Each bidder/proposer is requested to certify to its compliance with the Commonwealth of Pennsylvania's Contractor Integrity clause (see Certificate #7).

8. PUBLIC WORKS EMPLOYMENT VERIFICATION ACT. Bidder acknowledges that this bid is for a public works contract and bidder is therefore subject to the provisions, duties, obligations and penalties of the Public Works Employment Verification Act, 43 P.S. 167.1-167.11, which is incorporated herein by reference. The lowest responsible bidder must comply with the Public Works Employment Verification Act by submitting a Commonwealth Public Works Employment Verification Form to [RECIPIENT] prior to award of the contract. The Form and relevant information can be found on the Department of General Services' web site at [www.dgs.state.pa.us](http://www.dgs.state.pa.us). For reference, the Form is as Certificate #8. This provision is applicable to a public works project where the estimated cost of the total project is in excess of twenty-five thousand dollars (\$25,000).

\_\_\_\_\_  
Authorized Official & Title

\_\_\_\_\_  
Date

## **APPENDIX B – OFFICIAL AUDIT PROPOSAL FORM**

**Please be sure to complete this form in its entirety. Failure to do so will render your proposal non-responsive and it will not be granted further consideration.**

### **1.1 Proposer Guarantee**

The proposer certifies that it can and will provide, at a minimum, all services set forth in Sections 2.1 through 2.3.

### **1.2 Proposer Warranties**

#### **1.2.1**

Proposer warrants that it has both a Commercial General Liability insurance policy and an Automobile Liability insurance policy with coverage of not less than \$1,000,000 combined single life occurrence for bodily injury, personal injury and property damage. Proof shall be submitted upon award of the contract.

#### **1.2.2**

Proposer warrants that all information provided by it in connection with this proposal is true and accurate.

### **1.3 Proposer Small Business Participation**

Average number of employees over the past 12 months: \_\_\_\_\_

Average annual receipts over the past 3 years: \_\_\_\_\_

Type of entity (i.e. sole proprietor): \_\_\_\_\_

\_\_\_\_\_  
Authorized Official & Title

\_\_\_\_\_  
Date

## APPENDIX C – REVENUE OUTLINE FORM (R-S)

### PRICING SHEET ROLLING STOCK

Each year of the agreement, the contractor shall be bound by the following minimum annual guarantee amounts per contract year based upon the list of rolling stock in section 2.3.2 and Appendix D:

Contract Year	Minimum Annual Guarantee	Minimum Revenue Share %
July 1, 2024 through June 30, 2025		
July 1, 2025 through June 30, 2026		
July 1, 2026 through June 30, 2027		

**The agency (COLTS) is requesting proposals with not less than 50% minimum annual revenue share of annual advertising sales. Payment of sales will be remitted to County of Lackawanna Transit System by the 10th day of the month following month of service.**

County of Lackawanna Transit System (COLTS) reserves the right to increase or decrease the number of vehicles listed on Addendum D during the term of the contract. COLTS shall notify the selected company in the event the fleet should increase or decrease by 10% and if necessary, the minimum annual guarantee will be reviewed and possibly adjusted proportionately by mutual agreement of the parties.

\_\_\_\_\_  
Authorized Official & Title

\_\_\_\_\_  
Date



**APPENDIX D**  
**COLTS ADVERTISING PROGRAM**



County of Lackawanna Transit System

Robert Fiume  
Executive Director  
800 North South Road  
Scranton, PA 18504  
(570) 346-2061  
Fax: (570) 207-5050  
www.coltsbus.com

### COLTS Advertising Policy

WHEREAS, the County of Lackawanna Transit System (COLTS) is a municipal authority established by Lackawanna County which operates a public transit agency located in Lackawanna County, Pennsylvania;

WHEREAS, COLTS adopted an Advertising Policy on June 21, 2011;

WHEREAS, COLTS has decided to hereby rescind and replace the June 21, 2011 Advertising Policy with this policy in order to clarify and set forth the types of advertisements it will and will not accept for sale to be displayed on its property.

WHEREAS, COLTS has decided to sell space for advertising on its vehicles, route schedules and other literature, bus shelters, or other property, for the sole purpose of generating revenue for COLTS while at the same time maintaining or increasing its ridership.

COLTS will **not** accept advertising:

- for tobacco or alcohol or for businesses that primarily traffic in such goods;
- that promotes the use of firearms or firearm-related products or for businesses that primarily traffic in such goods;
- that are obscene, pornographic, or promotes or depict sexually-oriented goods or services or for businesses that primarily traffic in such goods or services or that appeal to prurient interests;
- that promotes violence or sexual conduct;
- that are deemed defamatory, illegal, fraudulent, misleading or false;
- that proposes a transaction or activity that is prohibited by federal, state or local law;
- that exploit the likeness, picture, image or name of any person, and/or trademark, trade name, copyrighted materials or other intellectual property of a third party, without adequate proof of express written authorization to do so;
- that contain, employ or imply profane or vulgar words;
- that demean or disparage a person, group of persons, business or group of businesses;
- that, if permitted, could reasonably subject COLTS to civil or criminal liability;
- that are political in nature or contain political messages, including advertisements involving political figures or candidates for public office, advertisements involving political parties or political affiliations, and/or advertisements involving an issue reasonably deemed by COLTS to be political in nature in that it directly or indirectly implicates the action, inaction, prospective action, or policies of a governmental entity.
- that promote the existence or non-existence of a supreme deity, deities, being or beings;
- that address, promote, criticize or attack a religion or religions, religious beliefs or lack of

religious beliefs; that directly quote or cite scriptures, religious text or texts involving religious beliefs or lack of religious beliefs; or are otherwise religious in nature.

**It is COLTS' declared intent to maintain its advertising space on its property as a nonpublic forum and not to allow its transit vehicles or property to become a public forum for the dissemination, debate, or discussion of public issues or issues that are political or religious in nature.**

COLTS' Advertising Policy is intended to be an objective and enforceable standard for advertising that is consistently applied.

COLTS shall maintain exclusive authority and control over where advertisements in general shall be displayed on its property.

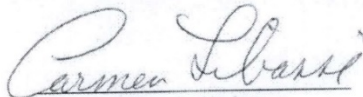
All third party advertisements appearing on COLTS property must contain the following disclaimer: "The views and/or opinions expressed by the advertiser are not necessarily those of COLTS." This disclaimer shall appear in a consistent form and manner on all third party advertisements.

By accepting any material, art or copy for advertising under this policy, COLTS does not endorse any goods, products, or services or agree with the message conveyed by the advertisement. Advertisers are solely responsible for the content of their advertisements.

Nothing in this Advertising Policy shall be interpreted or construed to prevent COLTS from displaying messages or information on its property promoting or supporting public transit or COLTS.

All prior policies of COLTS concerning advertising on COLTS property, either written or oral, shall be deemed null and void as of the effective date of this Advertising Policy.

The COLTS Board of Directors hereby adopts this policy on this 17<sup>th</sup> day of September, 2013, to be effective September 17<sup>th</sup>, 2013.

  
Carmen Libassi, Chairman