

**REQUEST FOR QUOTATION  
(THIS IS NOT AN ORDER)**

**Kansas City Area Transportation Authority**

1. REQUEST FOR QUOTATION NO. 14-5012-26	2. DATE ISSUED March 17, 2014	3. CLOSING DATE: Please provide quotation to the issuing Buyer (Block #4 & 5) on or before <b>April 10, 2014 by 10:00 a.m.</b>	PAGE 1	OF PAGES 16
4. BUYER INFORMATION (Company Name & Address): Kansas City Area Transportation Authority 1350 E. 17th Street Kansas City, MO 64108		5. BUYER REPRESENTATIVE CONTACT INFORMATION: Name: Kristen Emmendorfer Phone: 816.346.0360 Fax: 816.346.0336 Email: kristene@kcata.org		

**QUOTATION**

**IMPORTANT:** This is a Request for Information. Quotations furnished are not offers. If you are unable to quote, please so indicate on this document and return it to the Buyer in Block #4, attention of the Buyer Representative in block #5. This request does not commit Kansas City Area Transportation Authority to pay any costs incurred in the preparation or submission of this quotation, or to contract for supplies or services. Items are of domestic origin unless otherwise indicated by Offeror.

6. Offers will not be publicly opened. Offers shall remain firm for a period of **30** calendar days from the date specified in block #3.

7. OFFEROR'S PROPOSED F.O.B. POINT:  
☐ Destination ☐ Shipping Point ☐ Other: Specify City and State

7A. OFFEROR'S PROPOSED FREIGHT PAYMENT TERMS:  
☐ Offeror Pays Freight ☒ Buyer Pays Freight -

**SCHEDULE OF ITEMS AND PRICES**

(Identify any applicable Federal, State or Local taxes.)

8. PO LINE NO.	8A. ITEM ID	8B. ITEM DESCRIPTION (See next page for additional items, if any.)	8C. QUANTITY	8D. UNIT	8E. UNIT PRICE	8F. AMOUNT	8G. QUOTED DELIVERY
1	6' MAX Bench	Austin" Cantilever IPE Backless 6' With 2 equal spaced arms per Detail B-1	8				
2	4' MAX Bench	48" Backless Bench "Austin" Cantilever IPE w/ 1 center arm rest per Detail B-2	2				
3	Litter Can	"Chase" Park 36 Gallon	2				
		<b>OR APPROVED EQUAL FOR ITEMS</b>					
		Approved Equal Requests must be received					
		In writing no later than April 4, 2014.					

8H. TOTAL AMOUNT OF QUOTATION:

\$

9. QUOTER'S PROPOSED DISCOUNT FOR PROMPT PAYMENT

10. CERTIFICATION OF BUSINESS SIZE AND CATEGORY

(Buyer's standard terms are Net-30.)	10 CALENDAR DAYS - _____ % 20 CALENDAR DAYS - _____ % 30 CALENDAR DAYS - _____ % OTHER: _____	<input type="checkbox"/> Completed Supplier Registration form attached. OR, Supplier Registration information previously supplied for business size and business category remains accurate for this quotation: <input type="checkbox"/> YES <input type="checkbox"/> NO – Contact Buyer Representative in Block 5 above.	
11. BUSINESS NAME AND MAILING ADDRESS OF QUOTER		12. NAME AND TITLE OF QUOTER'S REPRESENTATIVE	
11A. TELEPHONE NO.	11B. REMITTANCE ADDRESS IF DIFFERENT FROM ABOVE	12A. SIGNATURE	12B. DATE SIGNED

RFQ Template 02/01/14

**SCHEDULE OF ITEMS AND PRICES (continued)**

(Identify any applicable Federal, State or Local taxes.)

8. PO LINE NO.	8A. ITEM ID	8B. ITEM DESCRIPTION (See next page for additional items, if any.)	8C. QUANTITY	8D. UNIT	8E. UNIT PRICE	8F. AMOUNT	8G. QUOTED DELIVERY

**GENERAL INFORMATION****Overview**

The Kansas City Area Transportation Authority ("KCATA" or "Authority") was formed in 1965 by the signing of a bi-state compact between the States of Missouri and Kansas. The compact gives the KCATA responsibility for planning, constructing, owning and operating transportation systems and facilities within the seven-county metropolitan area.

The counties are Cass, Clay, Jackson, and Platte in Missouri; and Johnson, Leavenworth, and Wyandotte in Kansas. The Authority's Metro Division operates a fleet of 300 buses on 70 routes, logging nearly 55,000 passenger trips every weekday. Service is provided from 4 a.m. to 1 a.m. seven days a week and includes MAX, the Metro Area Express; Metro Local and Express service; and MetroFlex, which is demand-response bus service.

In addition, KCATA also operates 35 Park-and-Rides and Metro Centers, Share-A-Fare paratransit service, the AdVANtage Van pool Program, and maintains the very popular Trolley Track Trail.

**General Information**

The Buyer is exempt from federal excise, federal transportation and state sales tax such taxes shall not be included in price quotations. All discounts should be reflected in each unit price quote unless otherwise specified.

Quotes are subject to all terms, conditions and provisions of this document. Only an authorized agent or officer of the Offeror shall complete the quote. Any erasures, corrections or other changes appearing on the form shall be initialed.

Buyer intends to award a purchase order/contract resulting from this solicitation to the responsible Offeror whose proposal, conforming to Solicitation, will be most advantageous to Buyer, cost or price and other factors considered.

Buyer may: (1) reject any or all proposals if such action is in Buyer's interest, (2) accept other than the lowest proposal, and (3) waive informalities and minor irregularities in proposals received. Buyer may award a purchase order/contract on the basis of initial proposals received, without discussions. Therefore, each initial proposal should contain Offeror's best terms from a cost or price and technical standpoint.

Buyer reserves the right to accept and make award at unit price(s) offered in the proposal for any item, group or combination of items, or less than the full quantity of any item. Buyer may accept a proposal whether or not there are negotiations after its receipt, unless a written notice of proposal withdrawal is received from Offeror before award. Negotiations conducted after receipt of a proposal do not constitute a rejection or counteroffer by Buyer.

Buyer may determine that a proposal is unacceptable if the prices proposed are materially unbalanced between line items. A proposal is materially unbalanced when it is based on prices significantly less than cost for some work and prices which are significantly overstated in relation to cost for other work, and if there is a reasonable doubt that proposal will result in the lowest overall cost to Buyer, even though it may be the low evaluated proposal, or it is so unbalanced as to be tantamount to allowing an advance payment.

### **Offeror's Responsibilities**

By submitting a quote, the Offeror represents that:

- a) It has read and understands the RFQ and the quote is made in accordance with the requirements stated herein,
- b) Possesses the capabilities, resources, and personnel necessary to provide efficient and successful service to the Buyer,
- c) Is authorized to transact business in the State of Missouri

Before submitting a quote, the Offeror should make all investigations and examinations necessary to ascertain site or other conditions and requirements affecting the full performance of the contract.

### **Authorization to Propose**

If an individual doing business under a fictitious name makes the RFQ, the RFQ should so state. If the RFQ is made by a partnership, the full names and addresses of all members of the partnership must be given and one principal member should sign the RFQ. If a corporation makes the RFQ, an authorized officer should sign the RFQ in the corporate name. If the RFQ is made by a joint venture, the full names and addresses of all members of the joint venture should be given and one authorized member should sign the RFQ.

### **Withdrawal & Incomplete Proposals**

The RFQ may be withdrawn upon written request received by KCATA before proposal closing. Withdrawal of the RFQ does not prejudice the right of the Offeror to submit a new RFQ, provided the new quote is received before the closing date.

Incomplete quotes may render the RFQ as non-responsive.

### **Modification of Proposals**

Any RFQ modifications or revisions received after the time specified for proposal closing may not be considered.

### **Approved Equals**

Wherever brand, manufacturer, or product names are used, they are included only for the purposes of establishing a description of minimum quality of the requested item unless otherwise specified. This inclusion is not to be considered as advocating or prescribing the use of any particular brand or item or product. However, approved equals or better must be pre-approved by the Buyer.

All requests for approved equals shall be received in writing. Any changes to the specifications will be made by addendum. Offerors may discuss the specification with the KCATA Procurement Department; however, requests for changes shall be written and documented.

When an approved equal is requested, the Offeror shall demonstrate the quality of its product to the KCATA, and shall furnish sufficient technical data, test results, etc. to enable the KCATA to determine whether the Proposer's product is or is not equal to specifications.

### **Protests**

The following protest procedures will be employed for this procurement. For the purposes of these procedures, "days" shall mean business days of KCATA administrative personnel which are days other than a Saturday, Sunday or legal holiday observed by KCATA for such administrative personnel.

**Pre-Submittal:** A pre-submittal protest is received prior to the proposal due date. Pre-submittal protests must be received by the KCATA, in writing and addressed to the KCATA Director of Procurement, no later than five (5) days before the bid closing date.

**Post-Submittal/Pre-Award:** A post-submittal/pre-award protest is a protest against making an award and is received after receipt of proposals but before award of a contract. Post-submittal protests must be received by the KCATA, in writing and addressed to the KCATA Director of Procurement, no later than five (5) days after the bid closing date.

**Post-Award:** Post-award protests must be received by the KCATA, in writing and addressed to the KCATA Director of Procurement, no later than five (5) days after the date of the Notice of Intent to Award.

The KCATA Director of Procurement shall respond in writing within five (5) days from the date of the written request. If the protester is not satisfied with the response of the KCATA Director of Procurement, the protester may appeal in writing to the KCATA General Manager within five (5) days from the date of the KCATA Director of Procurement's response.

The KCATA General Manager will decide if the protest and the appeal (if any) have been given fair and reasonable consideration, or if additional consideration is warranted. The KCATA General Manager's response will be provided within ten (10) days after receipt of the request. The KCATA General Manager's decision is final and no further action on the protest shall be taken by the KCATA.

By written notice to all parties, the KCATA Director of Procurement may extend the time provided for each step of the protest procedures, extend the date of notice of award, or postpone the award of a contract if deemed appropriate for protest resolution.

Protesters shall be aware of the Federal Transit Administration's (FTA) protest procedures with the FTA Regional Office (ref: FTA Circular 4220.1F). If federal funding is involved, FTA will review protests from a third party only when: 1) a grantee does not have a written protest procedure or fails to follow its procedure, or fails to review a complaint or protest; or 2) violations of specific federal laws or regulations have occurred.

An appeal to FTA must be received by FTA's regional office within five (5) working days of the date the protester learned or should have learned of KCATA's decision. Protests shall be addressed to: Regional Administrator, FTA Region 7, 901 Locust, Room 404, Kansas City, MO, 64106.

### **Disclosure of Proprietary Information**

A Offeror may restrict the disclosure of scientific and technological innovations in which it has a proprietary interest, or other information that is protected from public disclosure by law, which is contained in the proposal by:

- 1) Marking each page of each such document prominently in at least 16 point font with the words "Proprietary Information;"
- 2) Printing each page of each such document on a different color paper than the paper on which the remainder of the RFQ is printed; and
- 3) Segregating each page of each such document in a sealed envelope, which shall prominently display, on the outside, the words "Proprietary Information" in at least 16 point font, along with the name and address of the Proposer.

After either a contract is executed pursuant to the RFQ, or all proposals are rejected, the proposals will be considered public records open for inspection. If access to documents marked "Proprietary Information," as provided above, is requested under the Missouri Sunshine Law, Section 610 of the Revised Statutes of Missouri, the KCATA will notify the Offer of the request and the Offeror shall have the burden to establish that such documents are

exempt from disclosure under the law. Notwithstanding the foregoing, in response to a formal request for information, the KCATA reserves the right to release any documents if the KCATA determines that such information is a public record pursuant to the Missouri Sunshine Law.

### **Disadvantaged Business Enterprise (DBE) Requirements**

This RFQ is subject to the Requirements of Title 49, Code of Federal Regulations Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. KCATA's overall goal for DBE participation is 12.5%. A separate goal has not been established for this RFQ.

**Non-discrimination:** Offerors shall not discriminate on the basis of race, color, national origin, or sex in the performance of this project. The Offeror shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the Offeror to carry out these requirements is a material breach of the resulting contract, which may result in the termination of the contract or such other remedy as KCATA deems appropriate.

**DBE Certification:** DBE firms may participate as prime Contractors, subcontractors or suppliers. KCATA will only recognize firms that are certified as DBEs under the DOT guidelines found in 49 CFR Part 26. Firms must be certified as a DBE by a member of the Missouri Regional Certification Committee, which includes KCMO, MoDOT, City of St. Louis, Metro in St. Louis or KCATA. A list of certified firms may be found at [www.modot.mo.gov/ecr/index.htm](http://www.modot.mo.gov/ecr/index.htm). MBE and WBE certifications from other agencies will not be considered.

**DBE Requirements:** Please see Section \_ for DBE requirements applicable to this RFQ and any resulting contract. Section \_ forms and/or waivers must be completed with great care by each Offeror to ensure that the RFQ is acceptable.

### **Employee Eligibility Verification**

Offerors doing business with the Buyer must certify they are enrolled in and are participating in the federal work authorization program (i.e., Department of Homeland Security's E-Verify Program). For guidance in obtaining e-verification information, go to [www.e-verify.uscis.gov/emp](http://www.e-verify.uscis.gov/emp) or [www.dhs.gov/e-verify](http://www.dhs.gov/e-verify).

### **Proposer Status and Affirmative Action**

**Vendor Registration:** All firms doing business with the KCATA shall complete a Vendor Registration form (Attachment A). However, Offerors that have previously submitted a registration within the past two (2) years need not submit a new registration. It is the Offeror's responsibility to keep a current registration on file with the KCATA Procurement Department.

### **Affirmative Action Compliance:**

- a) Contractors and subcontractors agree to comply with Federal Transit Law, specifically 49 U.S.C. 5332 which prohibits discrimination, including discrimination in employment and discrimination in business opportunity.
- b) Firms that have not filed an Affirmative Action compliance certification with the KCATA in the past two (2) years must submit the following documents:
  - a. A copy of your firm's current Affirmative Action Program and/or policy statement. A current Certificate of Affirmative Action compliance from a local government agency may be submitted in lieu of a program or policy statement.
  - b. A completed EEO-1 Workforce Analysis Report (Attachment E.1).
- c) A letter requesting exemption from filing an Affirmative Action Program may be requested if your firm has twenty-five (25) or fewer employees. To do so, a signed, notarized letter on company letterhead listing the employees, their race, sex, job title and annual salary must be submitted.
- d) For questions on these requirements, or for assistance in completing the forms, please contact KCATA's Supplier Diversity Coordinator at (816) 346-0248.

### **SCOPE/DESCRIPTION OF WORK**

**Kansas City Area Transportation Authority (KCATA) seeks qualified proposers to offer quotations for the following bus stop benches and litter receptacles. Drawings are attached for reference for dimensions as well as other salient features of the requested items. Please also see photos attached to the RFQ notice. \*\*Where specific brand names or product numbers are used it is for reference purposes only. Approved equals apply to this procurement as outlined on Page 3 of this RFQ.**

**Bus benches and litter receptacles are to be delivered to KCATA at 1350 East 17<sup>th</sup> Street, Attention: Shipping and Receiving. Offload is by KCATA personnel.**

6' MAX Bench	**Austin" Cantilever IPE Backless 6' With 2 equal spaced arms per Detail B-1	8
4' MAX Bench	48" Backless Bench ***Austin" Cantilever IPE w/ 1 center arm rest per Detail B-2	2
Litter Can	"Chase" Park 36 Gallon	2

## CONTRACT TERMS AND CONDITIONS

**Standard Contract Terms and Conditions can be obtained by going to:**

[http://www.kcata.org/about\\_kcata/entries/TermsAndConditions](http://www.kcata.org/about_kcata/entries/TermsAndConditions)

### ADDITIONS AND/OR EXCEPTIONS

#### 1. ACCEPTANCE OF MATERIALS – NO RELEASE

Acceptance of any portion of the products, equipment or materials prior to final acceptance shall not release the Contractor from liability for faulty workmanship or materials, or for failure to fully comply with all of the terms of this Contract. KCATA reserves the right and shall be at liberty to inspect all products, equipment or materials and workmanship at any time during the contract term, and shall have the right to reject all materials and workmanship which do not conform with the conditions, Contract requirements and specifications; provided, however, that KCATA is under no duty to make such inspection, and Contractor shall (notwithstanding any such inspection) have a continuing obligation to furnish all products, services, equipment or materials and workmanship in accordance with the instructions, Contract requirements and specifications. Until delivery and acceptance, and after any rejections, risk of loss will be on the Contractor unless loss results from negligence of KCATA.

#### 2. WARRANTY

##### A. Warranty of Work and Maintenance

1. The Contractor warrants to KCATA, that all products, equipment and materials furnished under this Contract will be of highest quality and new unless otherwise specified by KCATA, free from faults and defects in workmanship or materials, merchantable, suitable for its intended purpose and in conformance with the Contract. All work not so conforming to these standards shall be considered defective. If required by KCATA, the Contractor shall furnish satisfactory evidence as to the kind and quality of products, equipment and materials. The work or services furnished must be of first quality and the workmanship must be the best obtainable in the various trades.
2. The work must be of safe, substantial and durable construction in all respects. The Contractor hereby guarantees the work against defective materials or faulty workmanship for a minimum period of one (1) year after final payment by KCATA and shall replace or repair any defective products, equipment or materials or faulty workmanship during the period of the guarantee at no cost to KCATA.

#### 3. CONTRACTOR'S RESPONSIBILITY

No advantage shall be taken by the Contractor or its subcontractor of the omission of any part or detail which goes to make the equipment complete and operable for use by KCATA. In case of any variance, this specification shall take precedence over Contractor's or subcontractor's own specifications. The Contractor shall assume



responsibility for all materials and services used whether the same is manufactured by the Contractor or purchased ready made from a source outside the Contractor's company.

#### **4. DEBARMENT AND SUSPENSION CERTIFICATION (Applies to all contracts greater than \$25K)**

- A. The Contractor, its principals and any affiliates, shall certify that it is not included in the "U.S. General Services Administration's List of Parties Excluded from Federal Procurement or Non-procurement Programs," as defined at 49 CFR Part 29, Subpart C.
- B. The Contractor agrees to refrain from awarding any subcontract of any amount (at any tier) to a debarred or suspended subcontractor, and to obtain a similar certification from any subcontractor (at any tier) seeking a contract exceeding \$25,000.
- C. The Contractor agrees to provide KCATA a copy of each conditioned debarment or suspension certification provided by a prospective subcontractor at any tier, and to refrain from awarding a subcontract with any party that has submitted a conditioned debarment or suspension certification until FTA approval is obtained.

#### **5. DELIVERY**

Materials and/or equipment shall be delivered to Kansas City Area Transportation Authority, Central Receiving Facility, Building #1, 1350 East 17<sup>th</sup> Street, Kansas City, Missouri, 64108. KCATA will assume custody of property at other locations, if so directed in writing by KCATA. Packing slips shall be furnished with the delivery of each shipment. KCATA reserves the right to inspect all deliveries or services before acceptance. All external components shall be wrapped for protection against damage during shipping and handling. Each specified unit shall be delivered to KCATA in first class condition and the Contractor shall assume all responsibility and liability for said delivery. KCATA reserves the right to extend delivery or installation, postpone delivery or installation, or reschedule delivery or installation in case the delivery or installation of service equipment under this Agreement shall be necessarily delayed because of strike, injunction, civil disturbance, government controls, or by reason of any cause of circumstance beyond the control of the Contractor, as detailed in writing by the Contractor. The time of completion of a delivery or installation shall be extended by a number of days to be determined in each instance by KCATA.

#### **6. DISADVANTAGED BUSINESS ENTERPRISE (DBE)**

- A. This Contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. A contract goal of 0% has been established for this procurement.

#### **7. EMPLOYEE ELIGIBILITY VERIFICATION (Applies to all contracts greater than \$5K)**

- A. To comply with Section 285.500 RSMo, *et seq.*, the Contractor is required by sworn affidavit to affirm its enrollment and participation in a federal work authorization program with respect to the employees working in connection with the contracted services. The Contractor shall also affirm that it does not knowingly employ any person in connection with the contracted services who does not have the legal right or authorization under federal law to work in the United States as defined in 8 U.S.C. §1324a(h)(3). The Contractor is required to obtain the same affirmation from all subcontractors at all tiers with contracts exceeding \$5,000.
- B. A federal work authorization program is any of the electronic verification of work authorization programs operated by the United States Department of Homeland Security (E-Verify) or an equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, under the Immigration Reform and control Act of 1986 (IRCA), P.L.99-603.

#### **8. LOBBYING RESTRICTIONS (Applies to all contracts greater than \$100K)**

- A. The Contractor is bound by its certification contained in its offer to the Authority regarding the use of federal or non-federal funds to influence, or attempt to influence any federal officer or employee regarding the award, execution, continuation, or any similar action of any federal grant or other activities as defined in 31

U.S.C. 1352, and 49 CFR Part 20. The Contractor agrees to comply with this requirement throughout the term of the Contract.

- B. The Contractor agrees to include these requirements in all subcontracts at all tiers exceeding \$100,000 and to obtain the same certification and disclosure from all subcontractors (at all tiers).

## 9. NOTIFICATION AND COMMUNICATION

- A. Issues regarding the contract document, changes, amendments, etc. are the responsibility of KCATA's Procurement Department. All notices and communications on all matters regarding this Contract may be given by Procurement Representative noted below:

If to KCATA: Kristen Emmendorfer, Sr. Buyer  
(816)346-0360  
Kansas City Area Transportation Authority  
1350 East 17<sup>th</sup> Street  
Kansas City, MO 64108

- B. The Contractor shall notify KCATA immediately when a change in ownership has occurred, or is certain to occur.

## 12. OWNERSHIP, IDENTIFICATION, AND CONFIDENTIALITY OF WORK

- A. All reports, programs, documentation, designs, drawings, plans, specifications, schedules and other materials prepared, or in the process of being prepared, for the services to be performed by Contractor shall be and are the property of KCATA, and shall be identified in an appropriate manner by a title containing KCATA's name and address.
- B. KCATA shall be entitled access to and copies of these materials during the progress of the work.
- C. Any such material remaining in the possession of the Contractor or in the possession of a subcontractor upon completion or termination of the work, and for which KCATA has reimbursed the contractor, shall be immediately delivered to KCATA. If any materials are lost, damaged or destroyed before final delivery to KCATA, the Contractor shall replace them at its own expense, and the Contractor assumes all risks of loss, damage or destruction of or to such materials.
- D. The Contractor may retain a copy of all materials produced under this Contract for its own internal use.
- E. Any KCATA materials to which the Contractor has access or materials prepared by the Contractor shall be held in confidence by the Contractor, who shall exercise all reasonable precautions to prevent the disclosure of confidential information to anyone except the officers, employees and agents of the Contractor as necessary to accomplish the work set forth in this agreement.
- F. Access to or copies of any reports, information, data, etc., available to or prepared or assembled by the Contractor under this Contract shall not be made available to any third party by the Contractor without the prior written consent of KCATA.
- G. Each tangible product resulting from work performed under this Contract shall be labeled with information stating that the project has been financed with Federal assistance provided by the U.S. Department of Transportation, Federal Transit Administration.

## 13. QUALIFICATION REQUIREMENTS

Qualification Requirement, as used in this clause, means a KCATA requirement for testing or other quality assurance demonstration that must have been completed before award. One or more qualification requirements apply to the supplies or services covered by this Contract, whether the covered product or service is an end item under this agreement or simply a component of an end item. The product or service must be qualified at the time of award of this Contract, whether the Contractor or a subcontractor will ultimately provide the product or service in question. If, after award, KCATA discovers that an applicable qualification requirement was not in fact met at



the time of award, KCATA may either terminate this Contract for default or allow performance to continue if adequate consideration is offered and KCATA determines the action is otherwise in KCATA's best interest.

#### 14. SUBCONTRACTORS

- A. **Subcontractor Payments** - See Requests for Payment Provisions.
- B. **Adequate Provision(s) in Subcontract(s)** - Any subcontracts related to this Contract must contain adequate provisions to define a sound and complete agreement. In addition, all subcontracts shall contain contractual provisions or conditions that allow for:
1. Administrative, contractual, or legal remedies in instances where subcontractors violate or breach contract terms, including sanctions and penalties as may be appropriate.
  2. Termination for cause and for convenience including the manner by which it will be effected and the basis for settlement.
  3. The following provisions if included in this Contract:
    - Buy America
    - Cargo Preference
    - Civil Rights
    - Clean Air
    - Clean Water
    - Debarment and Suspension
    - DBE Requirements
    - Disclaimer of Federal Government Obligations or Liability
    - Employee Eligibility Verification
    - Employee Protections (Davis Bacon and Copeland Anti-Kickback Acts)
    - Employee Protections (Contract Work Hours and Safety Standards Act)
    - Energy Conservation
    - Federal Changes
    - Fly America
    - Fraud and False or Fraudulent Statements or Related Acts
    - Incorporation of FTA Terms
    - Lobbying Restrictions
    - National Intelligent Transportation Systems Architecture & Standards
    - Ownership, Identification, and Confidentiality of Work
    - Rights in Data and Patent Rights
    - Privacy Act Requirements
    - Prohibited Weapons and Materials
    - Record Retention and Access
    - Recovered Materials
    - Seismic Safety
- D. The Contractor will take such action with respect to any subcontractor as KCATA or the U.S. Department of Transportation may direct as means of enforcing such provisions.
- E. KCATA reserves the right to review the Contractor's written agreement with its subcontractors (DBE and non-DBE) to confirm that required federal contract clauses are included.
- F. KCATA may perform random audits and contact minority subcontractors to confirm the reported DBE participation.

#### 15. UNAVOIDABLE DELAYS

- A. **Delays** - Unavoidable only if the delay was not reasonably expected to occur in connection with or during the Contractor's performance, and was not caused directly or substantially by acts, omissions, negligence, or mistakes of the Contractor, the Contractor's suppliers, or their agents, and was

substantial and in fact caused the Contractor to miss delivery or performance dates, and could not adequately have been guarded against by contractual or legal means.

- B. **Notification of Delays** - The Contractor shall notify the Director of Procurement as soon as the Contractor has, or should have, knowledge that an event has occurred which will cause an unavoidable delay. Within five (5) days, the Contractor shall confirm such notice in writing furnishing as much as detail as is available.
- C. **Request for Extension** - The Contractor agrees to supply, as soon as such data is available, any reasonable proof that is required by the Director of Procurement to make a decision on any request for extension. The Director of Procurement shall examine the request and any documents supplied by the Contractor and shall determine if the Contractor is entitled to an extension and the duration of such extension. The Director of Procurement shall notify the Contractor of its decision in writing.
- D. It is expressly understood and agreed that the Contractor shall not be entitled to damages or compensation, and shall not be reimbursed for losses on account of delays resulting from any cause under this provision.

#### **16. U.S. PRODUCT AND SERVICE PREFERENCE (Applies to all contracts greater than \$100K)**

##### **A. Buy America -**

- 1. The Contractor agrees to comply with 49 U.S.C. §5323(j), and 49 CFR. 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 CFR 661.7 and include final assembly in the United States for 15 passenger vans and 15 passenger wagons produced by Chrysler Corporation, microcomputer equipment & software. Separate requirements for rolling stock are set out at 5323(j)(2)(C) and 49 CFR Part 661.11. Rolling stock not subject to a general waiver must be manufactured in the United States and have a 60 percent domestic content.
- 2. The Contractor further agrees to include these requirements in all subcontracts exceeding \$100,000.

##### **B. Cargo Preference -**

- 1. In the event that ocean shipment is required for any material or commodity pursuant to this agreement, the Contractor agrees to utilize United States-Flag commercial vessels to ship at least fifty percent (50%) of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, to the extent such vessels are available at fair and reasonable rates for the United States-Flag commercial vessels.
- 2. The Contractor further agrees to furnish within 20 working days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated "on board" commercial ocean bill-of-lading in English for each shipment of cargo described in the paragraph above to KCATA (through the Prime Contractor in the case of subcontractor bill-of-lading) and to the Office of Cargo Preference, Maritime Administration (MAR-590), 400 Seventh Street, S.W., Washington, DC, 20590.
- 3. The Contractor further agrees to include these requirements in all subcontracts issued pursuant to this Contract when the subcontract may involve the transport of equipment, materials or commodities by ocean liner and exceeds \$100,000.

##### **C. Fly America -**

The Contractor agrees to comply with 49 U.S.C. 40118 (the "Fly America" Act) in accordance with the General Service Administration's regulations at 41 CFR Part 301-10, which provide that recipients and sub-recipients of federal funds and their Contractors are required to use U.S. Flag air carriers for U.S. Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum

adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation and exceed \$100,000.

#### **17. WARRANTY; WARRANTY OF TITLE**

- A. The Contractor agrees that equipment, materials or services furnished under this Agreement, shall be covered by the most favorable warranties the Contractor gives to any customer of such equipment, materials or services and that the rights and remedies provided herein are in addition to and do not limit any rights afforded to KCATA by any other clause in this Contract.
- B. The Contractor warrants to KCATA, that all products, equipment and materials furnished under this Contract will be of highest quality and new unless otherwise specified by KCATA, free from faults and defects and in conformance with the Contract. All work not so conforming to these standards shall be considered defective. If required by KCATA, the Contractor shall furnish satisfactory evidence as to the kind and quality of products, equipment and materials. Further, at a minimum, all such products, equipment or materials must be free of defects in workmanship or materials, merchantable, comply with all applicable specifications and laws and be suitable for its intended purposes. The workmanship must be the best obtainable in the various trades.
- C. Upon final acceptance by KCATA of all work to be performed by the Contractor, KCATA shall so notify the Contractor in writing. The date of final acceptance shall commence the warranty period.

## DISADVANTAGED BUSINESS ENTERPRISE (DBE) REQUIREMENTS

This project is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, *Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs*. Failure by the Contractor to carry out these requirements is a material breach of the resulting contract, which may result in the termination of the contract or such other remedy as KCATA deems appropriate.

1. **Non-discrimination** - This contractor shall not discriminate on the basis of race, color national origin, or sex in the performance of this Contract. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted contract. Failure by the Contractor to carry out these requirements is a material breach of the Contract, which may result in the termination of the Contract or such other remedy as KCATA deems appropriate. Each subcontract the Contractor signs with a subcontractor must include the assurance in this paragraph. See 49 CFR 26.13(b).
2. **DBE Certification** - KCATA will only recognize firms that are certified as DBE's under the DOT guidelines found in 49 CFR Part 26. DBE subcontractors must be certified as a DBE by a member of the Missouri Regional Certification Committee, which includes KCMO, MoDOT, City of St. Louis, Metro in St. Louis or KCATA. A list of certified firms may be found at [www.modot.mo.gov/ecr/index.htm](http://www.modot.mo.gov/ecr/index.htm). MBE and WBE certifications for other agencies will not be considered.
3. **DBE Participation Credit** - DBE firms may participate as Prime Contractors, Subcontractors or Suppliers.

The following shall be credited towards achieving the goals, except as provided herein:

- A. The total contract dollar amount that a qualified DBE Prime Contractor earns for that portion of work on the contract that is performed by its own workforce, is performed in a category in which the DBE is currently certified, and is a commercially useful function as defined by the Program. DBE Prime Contractors must perform thirty percent (30%) of the contract value.
- B. The total contract dollar amount that a Prime Contractor has paid or is obligated to pay to a subcontractor that is a qualified DBE; and
- C. Subcontractor participation with a lower tier DBE subcontractor; and
- D. Sixty percent (60%) of the total dollar amount paid or to be paid by a Prime Contractor to obtain supplies or goods from a supplier who is not a manufacturer and who is a qualified DBE. If the DBE is a manufacturer of the supplies, then one hundred percent (100%) may be credited, to be determined on a case-by-case basis.
- E. NO CREDIT, however, will be given for the following:
  1. Participation in a contract by a DBE that does not perform a commercially useful function as defined by the Program; and
  2. Any portion of the value of the contract that a DBE Subcontractor subcontracts back to the prime contractor or any other contractor who is not a qualified DBE; and
    - a. Materials and supplies used on the contract unless the DBE is responsible for negotiating the price, determining quality and quantity, ordering the materials and installing (where applicable) and paying for material itself; and
    - b. Work performed by a DBE in a scope of work other than that in which the DBE is currently certified.

#### 4. Documents Due Within 48 Hours of Bid Closing:

- A. **Schedule of Participation by Contractor and Subcontractors** - This form is to be completed and should include all subcontractors scheduled to perform on the project. The first section, "Prime Contractor," is the amount of work the Prime will be performing. List all DBE and non-DBE subcontractors in the second section. The "DBE % Participation" is the amount of work each DBE (prime or sub) will perform compared to the total

contract amount. If using DBE suppliers count 60% of their contract amount.

Total Value of Work: Total Bid/Proposal Amount

Total DBE Participation: Total amount of all work to be performed by DBEs (subs or primes)

Total DBE Percentage: Dollar amount of "Total DBE Participation" divided by "Total Value of Work"

- B. **Letter of Intent to Subcontract** - To be completed for each DBE firm on the project and signed by both the Prime and the DBE.
- C. **Contractor Utilization Plan/Request for Waiver** - This is a commitment that the Prime understands the DBE participation required on the project. In the event the Prime is not making a commitment to meet or exceed the established goal on the project, they must request a waiver and provide documentation that good faith efforts were expended to try to meet the goal. Good faith efforts are efforts that, given all relevant circumstances, a Proposer actively and aggressively seeking to meet the goals can reasonably be expected to make.

Failure to meet the contracted DBE participation commitment without documented evidence of good faith efforts may result in termination of the contract.

In evaluating good faith efforts, KCATA will consider whether the Proposer has performed the following, along with any other relevant factors:

1. Soliciting through all reasonable and available means (e.g. attendance at pre-bid meetings, advertising and/or written notices) the interest of all certified DBEs who have the capability to perform the work of the contract. The bidder must solicit this interest within sufficient time to allow the DBEs to respond to the solicitation. The bidder must determine with certainty if the DBEs are interested by taking appropriate steps to follow up initial solicitations.
2. Selecting portions of the work to be performed by DBEs in order to increase the likelihood that the DBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation, even when the prime contractor might otherwise prefer to perform these work items with its own forces.
3. Providing interested DBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.
4. Negotiating in good faith with interested DBEs.
  - a. It is the bidder's responsibility to make a portion of the work available to DBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available DBE subcontractors and suppliers, so as to facilitate DBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of DBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for DBEs to perform the work.
  - b. A bidder using good business judgment would consider a number of factors in negotiating with subcontractors, include DBE subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using DBEs is not in itself sufficient reason for a bidder's failure to meet the contract DBE goal, as long as such costs are reasonable. Also, the ability or desire of a prime contractor to perform the work of a contract with its own organization does not relieve the bidder of the responsibility to make good faith efforts. Prime contractors are not, however, required to accept higher quotes from DBEs if the price difference is excessive or unreasonable.
5. Not rejecting DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The contractor's standing within its industry, membership in specific groups, organizations,

or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the contractor's efforts to meet the project goal.

6. Making efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance as required by the KCATA or contractor.
7. Making efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.
8. Effectively using the services of available minority/women community organizations; minority/women contractors' groups; local, state, and Federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBEs.

#### 5. Documents Due After Award:

- A. KCATA reserves the right to review the Contractor's written agreement with its subcontractors (DBE and non-DBE) to confirm that required federal contract clauses are included. KCATA may perform random audits and contact minority subcontractors to confirm the reported participation.
- B. **Subcontractor Monthly Utilization Report** - Contractors will be required to submit this report with each pay application to KCATA. This report will include payments to ALL subcontractors – DBE and non-DBE. KCATA may require lien waivers from all subcontractors before reimbursement is made to the Contractor. KCATA may perform random audits and contact minority subcontractors to confirm the reported participation. Failure to meet the contracted goal without documented evidence of good faith effort may result in the termination of the contract.
- C. **Request for Modification, Replacement or Termination of Disadvantaged Business Enterprise (DBE) Project Participation** - Contractor is responsible for meeting or exceeding the DBE commitment amounts listed on the *Schedule of Participation by Contractor and Subcontractors* form submitted as part of Contractor's Bid Documents and as amended by any previously approved Request for Modification/Substitution. Any Change Orders or amendment modifying the amount Contractor is to be compensated will impact the amount of compensation due to DBEs for purposes of meeting or exceeding the Bidder/Proposer commitment. Contractor shall consider the effect of a Change Order or amendment and submit a Request for Modification/Substitution if the DBE commitment changes.
  1. **Termination Only for Cause** - Once the contract has been awarded; Contractor may not terminate a DBE subcontractor without KCATA's prior written consent. This includes, but is not limited to, instances in which a Contractor seeks to perform work originally designated for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE firm, or with another DBE firm.
  2. **Good Cause** - Good cause includes the following circumstances:
    - a. The listed DBE subcontractor fails or refuses to execute a written contract; or
    - b. The listed DBE subcontractor fails or refuses to perform the work of its normal industry standards. Provided, however, that the good cause does not exist if the failure or refusal of the DBE subcontractor to perform its work on the subcontract results from the bad faith or discriminatory action of the Prime Contractor; or
    - c. The listed DBE subcontractor fails or refuses to meet the Prime Contractor's reasonable, nondiscriminatory bond requirements; or
    - d. The listed DBE subcontractor becomes bankrupt, insolvent, or exhibits credit unworthiness; or
    - e. The listed DBE subcontractor is ineligible to work on public works projects because of suspension and debarment proceedings pursuant to 2 CFR Parts 180, 215 and 1200 or applicable state law; or
    - f. The DBE subcontractor is not a responsible contractor; or



- g. The listed DBE subcontractor voluntarily withdraws from the project and provides the Prime Contractor written notice of its withdrawal;
  - h. The listed DBE is ineligible to receive DBE credit for the type of work required;
  - i. A DBE owner dies or becomes disabled with the result that the listed DBE contractor is unable to complete its work on the contract;
  - j. Other documented good cause that compels KCATA to terminate the DBE subcontractor. Provided the good cause does not exist if the Prime contractor seeks to terminate a DBE it relied upon to obtain the contract so that the Prime Contractor can self-perform the work for which the DBE contractor was engaged or so that the Prime Contractor can substitute another DBE or non-DBE contractor.
- 3. Before submitting its request to terminate or substitute a DBE subcontractor, the Prime Contractor must give notice in writing to the DBE subcontractor, with a copy to KCATA, of its intent to request to terminate and/or substitute, and the reason for the request.
  - 4. The Prime Contractor must give the DBE five days to respond to the Prime Contractor's notice and advise the KCATA and the Contractor of the reasons, if any, why it objects to the proposed termination of its subcontract and why KCATA should not approve the Prime Contractor's action.  
If required in a particular case as a matter of public necessity (e.g., safety), the response period may be shortened.
- D. DBE Job-Site Review Commercially Useful Function (CUF) Determination. KCATA will be conducting on-site interviews with all DBE contractors. The number of interviews will be based on the DBE's projected scope of work. KCATA staff will work closely with the Prime Contractor on the project schedule to determine when DBE subcontractors will be on the project.

*For questions concerning KCATA's DBE Program or Vendor Registration/Affirmative Action Requirements please contact us.*

*Brian Christensen  
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(816) 346-0248 telephone  
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(816) 346-0336 facsimile*

## ATTACHMENTS

### DOCUMENT/FORM REQUIREMENTS

The following form(s) marked with ☒ is/are required to be submitted with your IFB/RFP/RFQ to be considered responsive. As a responsible/responsive supplier you are required to submit the noted document(s) to the Buyer Representative by the closing date and time of the IFB/RFP/RFQ. The electronic copy of these forms can be obtained by going to:

[http://www.kcata.org/about\\_kcata/entries/vendor\\_forms](http://www.kcata.org/about_kcata/entries/vendor_forms)

- ☒ **Attachment A – Vendor Registration**
- ☒ **Attachment B – Affirmative Action Certification Process**
- ☐ **Attachment C - Schedule of Participation by Contractor & Subcontractors**
- ☐ **Attachment D - Travel Policy & Hotel Rates for Contractors**
- ☒ **Attachment E.1 – EEO-1 Workforce Analysis Report**
- ☐ **Attachment E.2 – Letter of Intent to Subcontract**
- ☐ **Attachment E.3 – Contractor Utilization – Request for Waiver**
- ☒ **Attachment F.1 - Affidavit of Primary Participants Regarding Employee Eligibility Verification**
- ☒ **Attachment F.2 - Affidavit of Lower-Tier Participants Regarding Employee Eligibility Verification**
- ☒ **Attachment G.1 – Certification of Primary Participant Regarding Debarment, Suspension, and Other Responsibility Matters**
- ☒ **Attachment G.2 – Certification of Lower-Tier Participants Regarding Debarment, Suspension, and Other Ineligibility and Voluntary Exclusion**
- ☐ **Attachment H.1 – Certification of Primary Participants Regarding Restrictions on Lobbying**
- ☐ **Attachment H.2 – Certification of Lower-Tier Participants Regarding Restrictions on Lobbying**
- ☐ **Attachment I.1 - Buy America Certification Form – For Buses, Rolling Stock and associated equipment**
- ☐ **Attachment I.2 - Buy America Certification Form – For Steel or Manufactured Products**
- ☒ **Other:** Approved equal request if applicable. Request must be submitted in writing by April 4, 2014.