

METROPOLITAN TRANSIT AUTHORITY

REQUEST FOR PROPOSALS

FOR

EMPLOYMENT BACKGROUND INVESTIGATIONS

METRO REQUEST FOR PROPOSAL 4017000105

Proposer's signature on Request for Proposals (Section III- Forms for Proposing/Award) constitutes acceptance of a contract that may result from this Solicitation. Contract award/execution may be made by METRO without discussion.

FUNDING: 100% METRO

IMPORTANT – REQUEST FOR PROPOSAL

All responses to this solicitation must be labeled as indicated below and delivered or mailed to the following address:

Upper Left Corner of Envelope Must Indicate:
Proposer/Contractor Name and Address

Lower Left Corner of Envelope Must Indicate:
Solicitation Number
Due Date
Due Time
Solicitation Title

Metropolitan Transit Authority
Procurement Division Plan Room
1900 Main St., Suite 2021
Houston, Texas 77002
P.O. Box 61429
Houston, Texas 77208-1429

TABLE OF CONTENTS

SECTION I - PROPOSING REQUIREMENTS AND INSTRUCTIONS	iv
1 REQUEST FOR PROPOSAL	iv
2 "NO BID\PROPOSAL" RESPONSE FOR	vi
3 INSTRUCTIONS TO PROPOSERS	vii
SECTION II - FORMS FOR PROPOSING	xx
1 PROPOSAL FORM/SERVICE CONTRACT	xx
2 TECHNICAL PROPOSAL	xxi
3 BUSINESS ASSURANCE STATEMENT	xxii
4 CERTIFICATION OF RESTRICTIONS ON LOBBYING	xxiii
5 DEBARMENT AND SUSPENSION FORM	xxiv
6 DISPUTES RESOLUTION PROCESS	xxv
7 PROPOSER'S QUESTIONNAIRE	xxvi
8 CONTRACTOR UTILIZATION PLAN FORM	xxvii
9 CONTRACTOR UTILIZATION PLAN PLEDGE	xxviii
10 SUBCONTRACT/SUPPLIER LETTER OF INTENT	xxviii
SECTION III - FORMS FOR PROPOSING/AWARD	- 1 -
1 SOLICITATION AWARD FORM	- 1 -
2 PROPOSAL AMOUNT/SCHEDULE OF ITEMS AND PRICES	- 3 -
3 KEY PERSONNEL FORM	- 4 -
SECTION IV - DELIVERIES OR PERFORMANCE ARTICLES	- 5 -
1 DEFINITIONS	- 5 -
2 SERVICES TO BE PERFORMED	- 5 -
3 CONTRACT TERM	- 5 -
4 TEXAS ETHICS COMMISSION (TEC) ELECTRONIC FILING	- 5 -
SECTION V - INSPECTION AND ACCEPTANCE ARTICLES	- 7 -
1 INSPECTION OF SERVICES	- 7 -
SECTION VI - CONTRACT ADMINISTRATION DATA ARTICLES	- 8 -
1 COMPENSATION	- 8 -
2 INVOICING AND PAYMENT	- 8 -
3 CONTRACTOR REPRESENTATIVE	- 9 -
4 NOTICES	- 10 -
SECTION VII - INSURANCE ARTICLES	- 11 -
1 CONTRACTOR'S INSURANCE	- 11 -
2 INDEMNIFICATION AGREEMENT	- 11 -
SECTION VIII - SMALL BUSINESS PROGRAM ARTICLES	- 13 -
SECTION IX - SPECIAL TERMS AND CONDITIONS ARTICLES	- 14 -
1 HEALTH, SAFETY AND FIRST AID	- 14 -
2 CONTRACTOR'S EMPLOYEES	- 14 -
3 AVAILABILITY OF FUNDS FOR THE NEXT FISCAL YEAR	- 14 -
4 MOST FAVORED CUSTOMER	- 15 -
5 USE OF WORK PRODUCTS – ASSIGNMENT OF COPYRIGHT	- 15 -
6 INTER-LOCAL/COOPERATIVE PURCHASE	- 15 -
7 USE OF WORK PRODUCTS – ASSIGNMENT OF COPYRIGHT	- 15 -
8 COPYRIGHT AND PATENT INDEMNITY	- 16 -
9 CONFIDENTIALITY OF METRO DATA AND INFORMATION	- 16 -
SECTION X - GENERAL TERMS AND CONDITIONS ARTICLES	- 17 -
1 COMPLIANCE WITH LAWS/PERMITS AND LICENSES	- 17 -
2 METRO-FURNISHED PROPERTY	- 17 -
3 SUBCONTRACTING	- 17 -
4 CHANGES	- 17 -
5 DISPUTES	- 18 -
6 TERMINATION FOR CONVENIENCE OF METRO	- 19 -
7 TERMINATION FOR DEFAULT	- 19 -
8 PATENT INDEMNITY	- 20 -
9 OFFICIALS NOT TO BENEFIT	- 20 -
10 ETHICAL CONDUCT	- 20 -
11 COVENANT AGAINST CONTINGENT FEES	- 20 -
12 ASSIGNMENT	- 21 -
13 INDEPENDENT CONTRACTOR	- 21 -
14 SEVERABILITY	- 21 -
15 WAIVERS	- 21 -
16 CONTRACT ORDER OF PRECEDENCE	- 21 -
17 FORCE MAJEURE	- 21 -
18 INTERPRETATION, JURISDICTION AND VENUE	- 22 -
19 RIGHTS AND REMEDIES	- 22 -

20 RESPONSIBILITY OF THE CONTRACTOR	- 22 -
21 CONTRACTOR'S KEY PERSONNEL	- 22 -
22 USE OF METRO'S NAME IN CONTRACTOR ADVERTISING OR PUBLIC RELATIONS	- 22 -
23 LABOR REQUIREMENTS	- 22 -
24 RESTRICTIONS ON LOBBYING	- 22 -
25 DEBARMENT AND SUSPENSION	- 23 -
26 ENTIRE AGREEMENT	- 23 -
SECTION XII - EXHIBITS	- 24 -
1 EXHIBIT "A", SCOPE OF SERVICES	- 24 -
2 EXHIBIT "B" CONTRACTOR'S RELEASE	- 28 -
3 EXHIBIT "C" CERTIFICATION OF RESTRICTIONS ON LOBBYING	- 29 -
4 EXHIBIT "D" DEBARMENT AND SUSPENSION	- 30 -
4 EXHIBIT "E" CODE OF ETHICS OF THE METROPLITAN TRANSIT AUTHORITY	- 31 -
Section I. Declaration of Policy	- 32 -
Section II. Definitions	- 32 -
Section III. Standards of Conduct	- 34 -
A. Prohibitions	- 34 -
B. Disclosure Requirements	- 36 -
C. Nepotism	- 37 -
D. Outside Employment	- 37 -
E. Contracts with Former Employees	- 37 -
F. Exceptions	- 37 -
H. Ethics Advisory Opinions	- 38 -
Section IV. Penalties for Violation of Standards of Conduct	- 38 -
A. Board Members	- 38 -
B. Employees	- 38 -
C. Contractors	- 38 -
Section V. Construction, Application and Severability	- 38 -

SECTION I – BIDDING/PROPOSING REQUIREMENTS AND INSTRUCTIONS**1 REQUEST FOR PROPOSAL**

RFP No.: 4017000105

REQ. No.: UR1500997

PROJECT No.: N/A

DATE: 01/16/17

For: Supplies/Equipment Services Other

PROJECT DESCRIPTION: Pre-Employment Background Investigations

ISSUED BY:

METROPOLITAN TRANSIT AUTHORITY
Office of Procurement
1900 Main St, Suite 2021
Houston, Texas 77002
P.O. Box 61429
Houston, Texas 77208-1429

SUBMIT INQUIRES BY WRITING OR CALLING
(No Collect Calls Accepted):

NAME: Valencia Eaton
TITLE: Contract Administrator
TELEPHONE: (713) 739-4878
E-MAIL: valencia.eaton@ridemetro.org
TELEFAX: (713) 758-9418

Procurement Web Site: <http://www.ridemetroapp.org/procurement/>

PRE-PROPOSAL CONFERENCE TIME/LOCATION: A pre-proposal conference will be held on Thursday, January 26, 2017 at 10:00a m. local time in the Office of Procurement conference room located on the 2nd floor Room 2022 at 1900 Main Street, Houston, Texas. The purpose of the conference is to explain the Solicitation requirements and answer any questions prospective proposers may have regarding the Solicitation. Questions concerning this Solicitation must be presented in writing to the Senior Contracts Administrator at or prior to the Pre-Proposal Conference. All proposers are strongly encouraged to attend the Pre-Proposal Conference.

PROPOSAL RECEIPT/LOCATION: Proposals will be received until 3:00 p.m. local time on **Thursday, February 9, 2017** at the METRO Office of Procurement Plan Room, 2nd Floor, 1900 Main Street, Houston, Texas 77002. The proposal (original and 7 copies) is to be submitted in a sealed envelope bearing the name and address of the proposer and the identification "Request for Proposal No. RP1600001". Proposals received will not be publicly opened.

PERFORMANCE PERIOD: The Contract Performance Period will be for a period of Two (2) years with One (1) year option period from the effective date of the Contract. METRO will issue two (2) contracts and anticipates the period of performance to be effective 4/1/2017.

SMALL BUSINESS CONTRACT GOAL: METRO has adopted a Small Business Enterprise Program to encourage the participation of small business enterprises in contracting activities through race-gender neutral means. METRO sets Small Business goals on its contracts. Small Business Goals can be satisfied by METRO certified Small Businesses (SBE), Texas Unified Certification Program (TUCP) certified Disadvantaged Business Enterprises (DBE), or a combination of both. All references to Small Businesses in this document include Disadvantaged Business Enterprises. This Solicitation has a 15% small business participation goal. Copies of METRO's Small Business Program can be obtained upon request. METRO encourages Contractors to use financial institutions owned and controlled by socially and economically disadvantaged individuals. A listing of such institutions may be found at www.federalreserve.gov/releases/mob/current/default.htm.

PROPOSERS ARE REQUIRED TO DEMONSTRATE A COMMITMENT TO THE SMALL BUSINESS PARTICIPATION GOAL IN ORDER TO BE CONSIDERED IN THE EVALUATION PROCESS.

OBLIGATION: This Request for Proposal does not obligate the Metropolitan Transit Authority to award a contract, or to pay any costs incurred in the preparation or submittal of any proposal.

REGISTRATION ON PROCUREMENT WEB SITE: All proposers should register on METRO's procurement website at <http://www.ridemetroapp.org/procurement/> to insure that they receive the latest solicitations and updates via their registered e-mail address.

2 "NO BID/PROPOSAL" RESPONSE FORM

If no Proposal is to be submitted, detach this sheet from the solicitation, complete the information requested below, fold, affix postage and mail.

NO ENVELOPE NECESSARY.

- Do not provide this product line. Remove us from your source list for these items.
- Unable to obtain required insurance.
- Unable to obtain required bonding.
- Not equipped to handle this project.
- Do not carry this item.
- Not within the scope of our capabilities.
- Insufficient bidding/proposing time.
- Unable to identify items(s).
- Can supply item, however, cannot be competitive.
- Cannot comply with Delivery/Performance Period.
- Project size is too large.
- Project size is too small.
- Not interested in this type of project. Explain: _____
- Cannot comply with specifications. Explain: _____
- Other: _____

We
 Do Do Not desire to be maintained on your solicitation mailing list

TYPE NAME AND ADDRESS OF COMPANY:

Company Name

Type or Print Name of Signatory

Address

Title of Signatory

City State ZIP

Signature of Authorized Company Official

FROM:

Affix
Stamp
Here

TO: METROPOLITAN TRANSIT AUTHORITY
Procurement Division
1900 Main Suite 2021
Houston, Texas 77002
P.O. Box 61429
Houston, Texas 77208-1429

3 INSTRUCTIONS TO PROPOSERS

A. INTRODUCTION

1. The Metropolitan Transit Authority of Harris County Texas, (METRO) is seeking proposals, under the negotiated method of procurement, from qualified proposers (firms) to provide services for Pre-Employment Background Investigations. METRO invites your firm to submit a proposal in response to this Request entitled Pre-Background Background Investigations, as generally described in the Scope of Services, Exhibit "A" of this solicitation.
2. Enclosed is a Request for Proposal (RFP) and a proposed contract. The proposed contract is made available so you may be aware of the contemplated terms and conditions of any resulting contract. If you take exception to the solicitation (including the terms and conditions of the proposed contract), please elaborate in your proposal.

B. EXAMINATION OF DOCUMENTS

1. A complete set of proposal documents shall be used in preparing a proposal; METRO assumes no responsibility for errors or misinterpretations resulting from the use of incomplete sets of documents.
2. METRO, in making copies of these documents available on the above terms, does so only for the purpose of obtaining proposals on the work and does not convey a license or grant for any other use.
3. Each proposer should carefully examine these documents and take such other steps as may be reasonably necessary to ascertain the contract performance requirements. Failure to do so will not relieve the proposer from responsibility for estimating properly the difficulty or cost of successfully performing the contract. Extra compensation will not be allowed for conditions which are determinable by examining these documents.

C. EXPLANATION TO PROPOSERS

Any explanation desired by a proposer regarding the meaning or interpretation of the Request for Proposal or its Scope of Services, must be requested in writing at least ten (10) calendar days before date set to receive proposals. Any interpretation made will be in the form of an amendment to the Request for Proposal, or information letter and will be furnished to all prospective proposers. Receipt of Amendments by the proposer must be acknowledged in the space provided on the Request for Proposal or Amendment Form or by letter received before the time set for receipt of proposals. Oral explanations or instructions given before the award of the contract will not be binding. METRO will assume no responsibility for any understanding or representations concerning conditions made by any of its officers or agents or employees prior to the execution of the contract, unless included in these documents.

D. PROPOSER QUALIFICATIONS/ELIGIBILITY FOR AWARD

1. Each proposer shall complete, and submit the applicable forms contained in these documents. If the proposer is a joint venture, each joint venturer shall prepare and submit a separate form. Failure to complete and return the Proposer's Questionnaire may be grounds for rejection of the proposal.
2. In order for a proposer to be eligible to be awarded the contract, his proposal must be responsive to the Request for Proposal, show the proposer's technical competency, and METRO must be able to determine that the proposer is responsible to perform the contract satisfactorily.
3. Responsive proposals are those complying in all material aspects of the solicitation. Proposals which do not comply with all the terms and conditions of this solicitation will be rejected as nonresponsive.
4. Responsible proposers as a minimum must:
 - a) Have financial resources adequate to perform the contract, or ability to obtain such resources as are required during the performance of the contract;
 - b) Be able to comply with the required or proposed delivery or performance schedule, taking into consideration all existing business commitments;
 - c) Have necessary technical equipment, material and capability, including qualified supervision and skilled workforce, adequate to perform the contract, or the ability to obtain such resources as are required during the course of the contract;

- d) Have a satisfactory record of business integrity and ethics;
 - e) Have a satisfactory record of current and/or past performance in behalf of METRO and/or other owners, including the areas of scheduling, submittals, record keeping reporting, qualified supervision; skilled workforce, safety, quality of equipment, materials and workmanship, timely performance, warranties and guarantees;
 - f) If applicable, have a satisfactory record, as a contractor, of achieving Small Business Contract Goals in past METRO projects, as well as providing evidence satisfactory to METRO that the proposer will comply with Small Business Program requirements and Small Business goals contained herein.
 - g) Certify that it is not on the U.S. General Services Administration's "List of Parties Excluded from Federal Procurement or Nonprocurement Programs". Signing and submitting the proposal is so certifying;
 - h) Be otherwise qualified and eligible to receive an award under applicable laws and regulations.
5. A proposer may be requested to submit written evidence verifying that they meet the minimum criteria necessary to be determined a responsible proposer. Refusal to provide requested information will result in the proposer being declared nonresponsive, and the proposal will be rejected.

E. PROPOSAL CONTENTS

There are two parts of this Request for Proposal that must be completed: The technical and pricing proposals as described below. Both documents must be submitted by the date and time established for receipt of proposals for a proposal to be considered by METRO.

1. Technical Proposal: Each technical proposal shall be submitted in the format prescribed below and include as a minimum, Scope, Exhibit "A" and the following information:
 - a. Qualifications/Experience of Firm
 - Proposer shall provide introduction of firm and demonstrate five years of background investigation experience .
 - Proposer shall demonstrate relevant experience working with federal, state or local governmental agencies.
 - Proposer shall identify a minimum of five (5) clients represented in the past three years with at least one in the public sector in which similar services were provided, as well as five (5) current clients with name and telephone number of contact person and duration of project.
 - b. Project Management Structure and Methodology
 - Proposer shall demonstrate history, experience in pre-employment background investigation and verification services including a description of direct experience on projects of similar size, scope and complexity.
 - Proposer shall submit certificate of licenses pursuant to Texas Occupations Code 1702 and issued by the Texas Department of Public Safety, Regulatory Services Division.
 - The firm shall demonstrate DOT background check experience (drug and alcohol)
 - General explanation and chart which identifies project leadership and reporting responsibilities, including any proposed subcontractors and show how the team will interact with METRO project management and team personnel.

c. Qualifications and Experience of Personnel

- Proposer shall demonstrate ability in providing personnel for pre-employment
- Proposer shall identify qualifications and experience of all personnel proposed for assignment to the project.
- Personnel must have a minimum of two (2) years of experience in pre-employment background investigating services. Proposer shall include staffing plan and resumes of all personnel who will be assigned to the project.
- Proposer shall also indicate function(s) to be performed by each individual, including backup or contingency.

d. Small Business Participation

Proposer shall demonstrate commitment to meet or exceed the Small Business participation goal. Where applicable, consideration will be given to a Proposer's performance with respect to Small Business goal achievement on past METRO contracts. Proposals must include all required Small Business forms properly completed and executed.

2. Price Proposal (**Price Schedule- Original and seven (7) copies**). Each Proposer's cost proposal (see proposal form, "Proposal Amount/Schedule of Items and Prices") shall be submitted concurrently with the technical proposal and shall be in a separately sealed envelope clearly named as such, and referencing this Solicitation No. 4017000105

F. PROPOSAL EVALUATION

The proposals will be evaluated by an Evaluation Committee comprised of METRO staff members who have expertise and knowledge in the disciplines related to the project and in accordance with this Request for Proposal. The Committee's evaluations are to be based on all available information, including proposals, reports, discussions, reference and other appropriate checks, and the personal knowledge of the individual members in the areas of their expertise. Proposals requirements set forth herein are designed to provide guidance to the Proposer concerning the type of documentation that will be used by the Evaluation Committee. Proposal(s) will be evaluated using the criteria set forth below. The importance of each factor is also listed below.

FACTOR	RELATIVE IMPORTANCE
1. Pricing	35 points
2. Qualifications and Experience of Personnel	30 points
3. Qualifications/Experience of Firm	25 points
4. Project Management, Structure and Methodology	5 points
5. Small Business Participation	5 points max Small Business Participation

- Proposers are required to demonstrate their commitment to meet or exceed the Small Business participation goal.
- Proposals will be evaluated on a Pass/Fail basis in regards to Small Business goal commitment.
- Proposers that fail to commit to the Small Business goal will be deemed nonresponsive and no further consideration will be given to their proposal.
- Proposers who commit to the Small Business goal will be deemed responsive and their proposal will continue in the evaluation process. Proposers will not receive any points.
- Proposers who commit to exceeding the Small Business goal will continue in the evaluation process and may receive up to 5 points. The determining factors in awarding any of the 5 points include, but are not limited to:
 - Past compliance with the Small Business Enterprise (SBE) Program
 - Satisfactory completion of all administrative requirements of the SBE Program
 - Exceeding the specified SBE goal

G. SOURCE SELECTION

1. Selection of a firm to provide the services required herein may be made by an Evaluation Committee. The Evaluation Committee will determine the most qualified firms through validation of factors in paragraph "E" and "F" above and oral presentations, if necessary. If the decision is made to conduct oral presentations, presentations will be made accordingly.
2. The evaluation process may include the participation of an Oral Presentation Committee; an Executive Selection Committee, or a Board Selection Committee. The participation of the Executive Selection Committee or the Board Selection Committee may occur at the beginning of the evaluation process, foregoing an Evaluation Committee of staff members all together, or to become involved after the Evaluation Committee has made an initial shortlist. Board members may elect to participate as scoring members or non-scoring observers in any of these committees.

H. PREPARATION OF PROPOSAL

1. A proposal shall be submitted on the forms furnished, or copies thereof, shall be completed in ink or by typewriter and shall be manually signed. If erasures or other changes appear on the forms, each erasure or change shall be initialed by the person signing the proposal. Telegraphic, facsimile, or e-mailed proposals are not authorized.
2. If a proposal is from an individual, sole proprietorship, or a proposer operating under a trade name, the proposal shall be signed by that individual.
3. A proposal by a partnership shall be executed in the partnership name and signed by a partner; the official address of the partnership shall be shown below the signature.
4. A proposal by a corporation shall be executed in the corporate name by the president or a vice-president (or other corporate officer accompanied by evidence of authority to sign) and the corporate seal shall be affixed and attested by the corporate secretary or assistant secretary.
5. A proposal submitted by a joint venture shall list the name of all joint venturers and the mailing address of each and shall be executed by all joint venturers in the same manner as if they were individually submitting proposals. The signature portion of the Proposal Form shall be altered as appropriate for execution by the joint venture and all joint venturers.
6. All names shall be typed or printed below the signature.
7. The proposal shall contain an acknowledgment of receipt of all amendments.
8. Communications regarding this solicitation are to be directed to the address and to the attention of the person shown on the Request for Proposal.
9. If a proposer considers any of the terms or conditions of the solicitation (including the proposed Contract) to be unacceptable, the proposer should identify those which are so, and cite reasons therefore in the supplement to its cover letter. Any such exceptions or revisions, and the reasons therefore, will be considered as factors in evaluation of the proposal.
10. In an effort to promote greater use of recycled and environmentally preferable products and minimize waste, all proposals submitted should comply with the following:
 - All copies should be printed double-sided
 - All submittals and copies should be printed on recycled paper with a minimum post-consumer content of 30% or on tree-free paper (i.e., paper made from raw materials other than trees, such as kenaf). All proposals should note the level of recycled content contained in the paper being used.
 - Unless absolutely necessary, all Proposals and copies should minimize or eliminate the use of non-recyclable or non-reusable materials, such as plastic report covers, plastic dividers, vinyl sleeves and bindings. Three-ringed binders, glued materials, paper clips

and staples are acceptable.

- Proposers should submit materials in a format that allows for easy removal and recycling of paper materials.
- Proposers are encouraged to use other products that contain recycled content in their proposal documents. Such products may include, but not limited to, folders, binders, paper clips, discs, envelopes, boxes, etc. Where appropriate, Proposers may wish to note which products in their proposal are made with recycled materials.
- Unnecessary samples, attachments or documents not specifically asked for should not be submitted with the Proposal.

I. SUBMISSION OF PROPOSALS

A proposal shall be submitted so as to be received no later than the exact time and at the place indicated in the Request for Proposal and shall be enclosed in a sealed envelope clearly identified as a proposal with the project title, Request for Proposal number and proposal receipt time. The envelope shall identify the name and address of the proposer and shall contain any other required documents. Failure to do so may result in a premature opening of, or a failure to open, such proposal.

J. LATE PROPOSALS; MODIFICATION OR WITHDRAWAL OF PROPOSALS

1. Any proposal or modification of proposal received at the METRO office designated in the Request for Proposal after the exact time specified for receipt will not be considered. Late proposals received will be retained unopened in the official contract file.
2. A proposal may be withdrawn in person by a proposer or his authorized representative, provided his identity is made known and he signs a receipt for the proposal, but only if the withdrawal is made prior to the exact time set for receipt of proposals.
3. Modifications of proposals already submitted will be considered if received at the office designated in the Request for Proposal by the time set for receipt of proposals.

K. DISQUALIFICATION

METRO reserves the right to disqualify a proposal, after receipt of the proposal, upon evidence of collusion with intent to defraud or other illegal practices on the part of a proposer.

L. PROTESTS INSTRUCTIONS

1. Each protest or objection to the solicitation documents shall be submitted for resolution to the Chief Procurement Officer. Each such protest shall be in writing and shall be supported by the information set forth in Chapter 12 of METRO's Procurement Manual to enable the protest to be considered. A protest will not be considered if it is insufficiently supported or it is not received within the time limits specified herein.
2. A protest based upon terms, conditions or form of a proposed procurement action prior to receipt of proposals, shall be submitted so that it is received by the Chief Procurement Officer no later than five (5) calendar days prior to the proposal due date.
3. For protest concerning award decisions, including proposal evaluations, the initial protest submission must be received by the Chief Procurement Officers not later than five (5) calendar days after the interested party knows, or through exercise of reasonable diligence should have known, whichever is earlier, of the grounds of the protest.
4. Each protest will be processed in accordance with METRO's Protest Procedures located in Chapter 12 of METRO's Procurement Manual. A copy of the procedures will be provided to the protester upon written request to METRO's Chief Procurement Officer.
5. A written final determination on any protest will be rendered by METRO's President and Chief Executive Officer and provided to the protester as soon as practicable.
6. The protester must exhaust its administrative remedies by pursuing METRO's protest procedures to completion prior to appealing METRO's decision to FTA.
7. Federal Transit Administration (FTA) Circular 4220.1F, Chapter VII, addresses proposal protests. A copy of

this paragraph will be provided to the protester upon written request to METRO. Review of a protest by FTA will be limited to a grantee's failure to have or follow its written protest procedures, its failure to review a complaint or protest, or violations of Federal law or regulations. An appeal to FTA must be received by the cognizant FTA regional or Headquarters Office within five (5) working days of the date the protester learned or should have learned of an adverse decision by METRO or other basis of appeal to FTA. Violations of a specific Federal law or regulation will be handled by the complaint process stated within that law or regulation. Alleged violations on other grounds are under the jurisdiction of the appropriate State or local administrative or judicial authorities.

M. POSTPONEMENT OF DATE SET FOR RECEIPT OF PROPOSALS

Notwithstanding the time for receipt of proposals established in the Request for Proposals, the date and time for receipt of proposals may be postponed solely at METRO's discretion.

N. AWARD OF CONTRACT

1. Not-to-exceed Contracts, with fixed, unit costs, will be awarded to the responsive, responsible proposer(s) whose proposal conforming to this solicitation will be most advantageous to METRO, price and other factors considered. A copy of the proposed Contract is provided herein for the information of prospective Proposers.
2. METRO may accept within the time specified herein, any proposal whether or not there are negotiations subsequent to its receipt, unless the proposal is withdrawn by written notice received by METRO prior to award. If subsequent negotiations are conducted, they shall not constitute a rejection or counter offer on the part of METRO.
3. METRO may award a contract, based on initial proposals received, without discussion of such proposals. Accordingly, each initial proposal should be submitted on the most favorable terms from a price and technical standpoint which the Proposer can submit to METRO.
4. The lowest price proposer is not guaranteed that it will receive the METRO contract award.
5. METRO reserves the right to: (1) cancel the entire solicitation; (2) issue subsequent Request for Proposals; (3) negotiate with all qualified proposers considered to be within the competitive price range; (4) reject any or all proposals and (5) to waive informalities and minor irregularities in proposals received.
6. Any financial data submitted with any proposal hereunder or any representation concerning facilities or financing will not form a part of any resulting contract.
7. A written Notice-of-Award will be issued to the successful proposer upon being selected for award of a contract and execution of any resultant contract.

O. PROHIBITION ON LOBBYING

No proposer shall, directly or indirectly, engage in any conduct (other than the submission of the proposal or other prescribed submissions and/or presentations before the Evaluation or Senior Selection Committee) to influence any employee of METRO or any member of the Metropolitan Transit Authority Board of Directors concerning the award of a contract as a result of this Solicitation. Violation of this prohibition may result in disqualification of the proposer from further participation in future METRO solicitations or contracts.

P. DISCOUNTS

1. No discounts will be considered in the evaluation of proposals.
2. Discounts for early payment may be offered in the original proposal or on individual invoices submitted under the resulting contract, and discounts offered will be taken by METRO if payment is made within the discount period specified.
3. Discounts that are included in proposals become a part of the resulting contract and are binding on the Consultant.

Q. TAXES

METRO is exempt from payment of Federal Excise and Transportation Tax and the Texas Limited Sales, Excise and Use Tax. Proposers shall not include an assessment of these taxes in their proposal.

R. SMALL BUSINESS AND DISADVANTAGED BUSINESS ENTERPRISE PROGRAMS

1. The Metropolitan Transit Authority of Harris County, Texas (METRO) has implemented a Small Business Enterprise Program, hereinafter referred to as the Program, for small businesses attempting to provide goods and/or services as prime contractors to METRO or as subcontractors to other prime contractors to METRO. It is the policy of METRO to promote equal opportunity and nondiscrimination in all of its procurement matters in accordance with state and federal law. The Program seeks to provide METRO certified Small Businesses (SBE) and Texas Unified Certification Program (TUCP) certified Disadvantaged Businesses Enterprises (DBE) a full and fair opportunity to participate in METRO projects through race-gender neutral means. The Small Business Enterprise Program shall not be used to discriminate against any person or company or group of persons or companies because of race, color, religion, sex, age, disability or national or ethnic origin. Each bidder, proposer, contractor and subcontractor shall comply with this nondiscrimination requirement.
2. The Small Business Enterprise Program is a separate program from METRO's Disadvantaged Business Enterprise (DBE) Program which is administered by the federal government and applies to federally funded projects. METRO's DBE Program can be found at www.ridemetro.org/Opportunities/Small Business Program.
3. Nothing in the Small Business or Disadvantage Business Enterprise Programs should be construed to give a Bidder or Proposer a property interest in a proposal, bid or contract prior to the Board of Directors' award of the contract and compliance with all statutory and legal requirements.
4. METRO has established a Small Business Contract Goal for this Solicitation. The Small Business Contract Goal may be satisfied by utilizing METRO certified Small Businesses or TUCP certified Disadvantaged business enterprises or a combination of both. All references to Small Businesses include Disadvantaged Businesses. The Small Business Contract Goal for Small Business participation is:

15%

5. Small Business Goal Commitment for the Small Business Goal listed in above item #4
 - a. **If a Small Business Goal is established in item #4 above, Bidders/Proposers that fail to commit to the Small Business goal will be deemed nonresponsive and no further consideration will be given to their bid/proposal.**
 - b. Noncertified Small Business or TUCP Disadvantaged Business Enterprise Primes must subcontract at a minimum the Small Business Contract Goal percentage to certified Small Business, TUCP Disadvantaged Business Enterprise firms or a combination of both in order to satisfy the Small Business Contract Goal requirement.
 - c. The performance of a METRO Small Business or TUCP Disadvantaged Business Enterprise Prime may satisfy the Small Business Contract Goal requirement if:
 - i. The SBE/DBE Prime self-performs at a minimum the Small Business Goal percentage

Example: SB Goal is 35%,
If the SBE/DBE Prime self performs 35%
the Prime has satisfied the 35% SB goal commitment
 - ii. The SBE/DBE Prime combined with a SBE/DBE subcontractor performs at a minimum the Small Business Goal percentage

Example: SB goal is 40%
SBE/DBE Prime self performs 35%
SBE/DBE subcontractor performs 5%
The Prime has satisfied the 40% SB goal commitment
 - iii. The **SBE/DBE Prime cannot self-perform 100% of the contract** and must subcontract to SBE/DBEs and/or non-SBE/DBEs at a minimum the Small Business Goal percentage

Example: SB goal is 35%
 SBE/DBE Prime self performs 65%
 Subcontractors (certified and/or noncertified) performs 35%
 The Prime has satisfied the 35% SB goal commitment

- iv. Joint Venture Contractors with SBE/DBE partners will count towards the Small Business Goal only for the percentage of the SBE/DBE partner.

Example: Joint Venture = 1 - Non-SBE/DBE partner @ 50% of Joint Venture
 1 - SBE/DBE partner @ 50% of Joint Venture

Joint Venture is performing 30% of the contract = 15% SB participation

- v. Joint Ventures and their partners are **prohibited** from submitting as a Prime and as a Subcontractor on the same submission.

Example: Joint Venture submits as a Prime
 Joint Venture partners are listed as subcontractors on the same submission

- d. All Prime Contractors, whether SBE/DBE or non-SBE/DBE must always **self- perform at a minimum 30%** of the contract regardless of the Small Business Goal percentage
- e. Bidders/Proposers are **prohibited from multiple submissions** of bids or proposals, i.e. submitting as a Prime Contractor in one submission and as a Subcontractor in another submission for the same project. Such multiple submissions may result in the disqualification of all submissions where the Bidder/Proposer is listed.
- f. Agreements between a Bidder/Proposer and a Small Business Enterprises or Disadvantaged Business Enterprises in which the SBE or DBE promises not to provide subcontracting quotations to other bidders/proposers shall be prohibited.
- g. SBEs and DBEs are limited to submitting as subcontractors on only **four (4)** bid/proposal submissions for the same project. Failure to adhere to this four (4) bid/proposal limit may result in the disqualification of the offending SBE or DBE from all bids/proposals.

6. Required Small Business Documents

a. Contractor Utilization Plan

- i. For all contracts, with or without, Small Business contract goals, METRO requires that every bidder or proposer submit a Contractor's Utilization Plan (the "Plan") when submitting its bid or proposal or response to request for qualifications.
- ii. If applicable, the Plan should set forth how the Small Business Contract Goal for the proposed project is to be met. The Plan will be used by METRO as a factor in evaluating whether a Proposer has complied with the requirements of the Program to satisfy the Small Business Contract Goal.
- iii. **If the small business participation submitted by the bidder/proposer does not meet the Small Business Contract Goal, if any, the bidder/proposer will be deemed non-responsive and will not be considered for contract award.**
- iv. **Failure to submit a complete Plan for contracts with Small Business Goals will result in bid/proposal being deemed non-responsive and will not be considered for contract award.**
- v. The Contractor's Utilization Plan must include the following:
 1. A simple, straight-forward statement outlining subcontractor participation regardless of certification, inclusive of scope, responsibilities and percentage of work.
 2. Materials and supplies shall be counted towards the small business goal as follows:
 - a. 100 percent of the cost of materials or supplies purchased from a

small business manufacturer can be applied towards the Small Business goals of this contract. A manufacturer is defined as a firm that operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles, or equipment of the general character described by the scope and/or specifications of the contract.

- b. 60% of the cost of materials or supplies purchased from a small business regular dealer can be applied towards the Small Business goals of this contract. A regular dealer is defined as a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the scope and/or specifications of the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business.
3. Copies of documents demonstrating that each small business team member is acceptably certified as either a METRO certified Small Business or TUCP certified Disadvantaged Business Enterprise, and verifying that such certification is current as of the date of submission.

METRO accepts the following certifications:

- SBE - Metropolitan Transit Authority of Harris County (METRO)
- DBE - City of Houston/Texas Unified Certification Program (TUCP)
- DBE - City of Austin
- DBE – Corpus Christi Regional Transportation Authority
- DBE – North Central Texas Regional Certification Agency
- DBE – South Central Texas Regional Certification Agency
- Texas Department of Transportation (DOT) approved DBE certification

METRO does **not** accept the following certifications:

- State of Texas HUB (Historically Underutilized Business)
- Minority Business Enterprise only
- Women Business Enterprise only
- City of Houston Small Business certification only

If a proposer/bidder submits plans to add a firm as part of its small business participation that is not yet certified as referenced above, that firm must be either METRO Small Business or TUCP Disadvantaged Business Enterprise certified **prior** to the bid/proposal submittal date. Firms certified after the bid/proposal submittal date will not be counted towards the Small Business goal commitment. Additional Small Business certification information and forms may be found at METRO's website: www.ridemetro.org under "Small Business".

4. When requested, a timeline for performance by subcontractors.
5. Signature of the Bidder/Proposer
- vi. When Small Business Goals have been established, the Contractor shall adhere to the Plan submitted unless a waiver is received from the Office of Small Business. Any changes in the Plan regarding the proposed use of certified subcontractors in discharging the contract duties must be approved by the Office of Small Business. The approval of the Office of Small Business will not be unreasonably withheld upon a showing of good cause to make the change.
- vii. When adding a certified subcontractor to the "Plan", with Small Business Goals, the Contractor must submit a copy of the subcontract agreement to the Office of Small Business within 15 days of receiving approval from the Office of Small Business.
- b. Business Assurance Statement (BAS)
- i. Bidders/Proposers are required to submit an executed Business Assurance

Statement with their bid/proposal when Small Business Goals have been established

- ii. Bidders/Proposers must enter their Small Business Goal commitment. This includes the SBE/DBE Prime's participation if applicable.
 - iii. Bidders/Proposers must enter into agreements with the subcontractors listed on the Plan
 - iv. Bidders/Proposers must include the BAS clauses in their subcontractor agreements
- c. Letter of Intent (LOI)
- i. Bidders/Proposers are required to submit Letters of Intent for all subcontractors when Small Business Goals have been established.
 - ii. The Letters of Intent must be executed by the Prime and Subcontractor
- d. Contractor utilization Plan Pledge
- i. Bidders/Proposers are required to submit an executed Contractor Utilization Plan Pledge (Pledge) with their bid or proposal when Small Business Goals have been established
 - ii. Bidders/Proposers must pledge prompt payment to all subcontractors
 - iii. Bidders/Proposers must affirm adherence to METRO's Nondiscrimination Mandate
 - iv. When applicable, Bidders/Proposers must pledge prompt payment of retainage
 - v. Bidders/Proposers must include the Pledge clauses in their subcontractor agreements
7. Incentives Utilizing Small Businesses
- a. Fees for Solicitation Documents. Submitters making a valid bid and participating in the Program will receive a refund for up to seven (7) sets of documents purchased from METRO.
 - b. Bid Security / Bond. A bid security will no longer be required except for federally funded construction solicitations exceeding \$100,000.
 - c. METRO's Incentives. METRO may utilize other incentives, as set forth in the bid specifications or request for proposal, as it determines appropriate.
8. METRO encourages Contractors to use financial institutions owned and controlled by socially and economically disadvantaged individuals. A listing of such institutions may be found at www.federalreserve.gov/releases/mob/current/default.htm

S. INSTRUCTIONS FOR CERTIFICATION

1. By signing and submitting a proposal, the Proposer is providing the certification set out in Paragraph T below.
2. The certification in this Instructions to Proposers is a material representation of fact upon which reliance will be placed by METRO to enter into a resultant contract. If it is later determined that the Proposer/Contractor knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, METRO may pursue available remedies, including suspension and/or debarment.
3. The Proposer shall provide immediate written notice to METRO if at any time the Proposer learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms covered "transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "persons," "primary covered transaction," "principal," "proposal" and "voluntarily excluded", as used herein, have the meanings set out in the Definition and Coverage sections of rules implementing Executive Order 12549. You may contact the person to whom your proposal is submitted for assistance in obtaining a copy of this regulation.

5. The Proposer agrees by submitting a proposal that, should the resulting contract for the proposed covered transactions entered into, it shall not knowingly enter into any subcontract with a firm who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by METRO.
6. The Proposer further agrees by submitting this proposal that it will include the instruction titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction," at Paragraph T below, without modification, in all solicitations for lower tier covered transactions, expected to equal or exceed \$25,000.00.

T. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION - LOWER TIER COVERED TRANSACTION

1. The Proposer certifies, by submission of the proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
2. Where the Proposer is unable to certify to any of the statements in this certification, the Proposer shall attach an explanation to the proposal being submitted to METRO.

U. METRO-FURNISHED PROPERTY

No material, equipment or facilities will be furnished by METRO unless otherwise stated in the solicitation.

V. SOLICITATION ORDER OF PRECEDENCE

In the event of an inconsistency between provisions of this solicitation prior to award, the inconsistency shall be resolved by giving precedence in the following order:

1. Solicitation amendments (if any) with the latest having precedence;
2. Instructions to Proposers;
3. The Proposal Form;
4. The proposed contract articles;
5. Scope of Service; and
6. Any other full-text provision of this solicitation whether incorporated by reference or otherwise.

W. APPROVAL OF CONTRACT

If required by the METRO Procurement Manual, award of a Contract evolving from this solicitation shall be contingent upon the prior receipt of written approval from the METRO Board of Directors. No contractual agreement shall be binding on METRO until this approval has been obtained. It shall be the responsibility of firms responding to this solicitation to monitor Board award decisions. All persons and/or entities responding to this Solicitation hereby acknowledge the contract award requirement enumerated in this Paragraph. Anticipated Board Items are posted on METRO's web site at <http://www.ridemetro.org/About Us/Board/Meetings.aspx>.

Public notice of solicitation results

The anticipated METRO Board meeting month for approval of a contract resulting from this solicitation will be forthcoming. It is the responsibility of the proposer to check METRO's website for notices on the specific dates for METRO Board meetings. All proposers of this Solicitation and METRO hereby agree that this provision shall serve as the minimum required action by the proposer toward exercising due diligence in obtaining the results of this Solicitation. The requirement of approval by the METRO Board of Directors for any particular solicitation is dependent upon several factors. However, all proposers shall be required to check the METRO web site regarding whether or not the solicitation associated with their proposal requires approval by the METRO Board of Directors. All persons and/or entities responding to this Solicitation hereby acknowledge the Public Notice of Solicitation Results enumerated in this Paragraph. METRO Board meeting notices are posted on METRO's web site at: <http://www.ridemetro.org/AboutUs/Board/Meetings.aspx>.

X. CONFLICTS DISCLOSURE

Vendors doing business with METRO or seeking to do business with METRO are required to file a completed questionnaire (FORM CIQ) disclosing the vendor's affiliations or business relationship with any Board Member, local government officer (or his or her family member). Form CIQ is available on METRO's web site at <http://www.ridemetro.org/Opportunities/ConflictsDisclosure.aspx>.

Y. SUBMISSION REQUIREMENTS AND PROCEDURES

Submission of the below forms identified as "Contractor Owned" are a condition to be met by the proposers in order to be deemed responsive and must be met as a condition prior to Contract award. Once completed and submitted, these documents will be considered "contractor owned" and will not be incorporated into the Contract. However, they will be made part of the original contract file. Any changes or adjustments to the information on these forms shall be submitted to the Contracting Officer and the Office of Small Business for approval. Once approved, the updated form(s) will be added to the contract file without requiring modification to the contract.

Each Proposer must complete, sign and return the following forms/documents indicated below:

1. Proposal Forms
 - *a "PROPOSAL FORM/SERVICE CONTRACT".
 - *b "TECHNICAL PROPOSAL".
 - *c. " BUSINESS ASSURANCE STATEMENT" (Contractor-Owned)
 - *d. "SUBCONTRACTOR/SUPPLIER LETTER OF INTENT" (Contractor-Owned)
 - *e "CERTIFICATION OF RESTRICTION ON LOBBYING"
 - *f. "DEBARMENT AND SUSPENSION FORM". Proposers must provide this document with their proposal and document must be signed.
 - *g "DISPUTES RESOLUTION PROCESS". Proposer shall designate on this form the type of disputes resolution process (Disputes Appeals Committee or Non-Binding Third Party Arbitration) that will apply to any resultant contract resulting from this solicitation. In the event the successful proposer fails to make such designation on this form as instructed, any resulting contract will incorporate the "Disputes Appeal Committee" process for disputes resolution.
 - *h. "PROPOSER'S QUESTIONNAIRE".
 - *i. "CONTRACTOR UTILIZATION PLAN FORM". Identifying all subcontractors the proposer intends to contract with specifying the agreed price and/or percentage to be paid each subcontractor for such work, and certifying the contract items and parts thereof to be performed by each subcontractor. (Contractor-Owned)
 - *j. Documentation demonstrating that each small business team member is acceptably certified as either a METRO certified Small Business or TUCP certified disadvantaged business enterprise and verifying that such certification is current as of the date of the submission.
 - *k. "CONTRACTOR'S UTILIZATION PLAN PLEDGE". The contractor shall complete and return this form if the use of a subcontractor(s) are proposed. A pledge of prompt payments to **ALL** subcontractor should be included. Finally, please provide an affirmative statement that the prime contractor adheres to METRO's Nondiscrimination Mandate and that it has not discriminated against any businesses in considering subcontracting opportunities based on race, sex, religion, national or Ethnic origin, age or disability. (Contractor-Owned)

NOTE: THE ABOVE "CONTRACTOR'S UTILIZATION PLAN PLEDGE", "CONTRACTOR UTILIZATION PLAN FORM" AND "SUBCONTRACTOR/SUPPLIER LETTER OF INTENT" CONSTITUTE THE CONTRACTOR'S COMMITMENT TO SUBCONTRACT TO CERTIFIED BUSINESSES.

BUSINESS ASSURANCE STATEMENT, SUBCONTRACTOR/SUPPLIER LETTER OF INTENT, CONTRACTOR UTILIZATION PLAN FORM, AND CONTRACTOR UTILIZATION PLAN PLEDGE MUST BE SUBMITTED TOGETHER UNDER A COMMON TAB IN BIDS/PROPOSALS

2. Proposal/Award Forms

- *a "Solicitation, Proposal and Award".
 - *b. "Proposal/Contract Amount, Items and Prices". Submit in a separate sealed envelope."
 - *c. "KEY PERSONNEL". The proposer shall list significant personnel associated with providing the services.
- **3. When a special license or permit is required by Federal, State or Local law of ordinance, a bidder/proposer must be properly licensed prior to submitting proposal and furnish evidence of such with the proposal.
- * Provide with Proposal Submittal
- ** Provide with Proposal Submittal, if applicable

SECTION II - FORMS FOR PROPOSING

1 PROPOSAL FORM/SERVICE CONTRACT

READ THE INSTRUCTIONS TO PROPOSERS. THIS FORM TO BE SUBMITTED IN ONE COPY.

NAME OF PROJECT: Pre-Employment Background Investigations DATE OF REQUEST FOR PROPOSAL: 01/09/17
RFP NO.: 4017000105
REQUISITION NO.:UR1500997
PROJECT NO.: N/A

PROPOSER'S NAME AND ADDRESS: (Type or Print, incl. "Zip Code) DATE:

In compliance with the above referenced Request for Proposal, the undersigned hereby proposes to furnish all necessary resources and other means to furnish the services required, or portion thereof, listed in this Proposal, and as presented by the undersigned.

The undersigned agrees that this offer will remain valid for a period of one hundred twenty (120) calendar days after the date of receipt of proposals.

RECEIPT OF PROPOSAL AMENDMENT The undersigned acknowledges receipt of the below listed Amendment(s).
(Give number and date of each):

NAME OF PROPOSER (Type or Print) FULL NAME OF PARTNERS (Type or Print)

BUSINESS ADDRESS (Type or Print, incl. "Zip Code")

BY (Sign in ink, type or print name under signature)

TITLE (Type or print)

DIRECTIONS FOR SUBMITTING PROPOSALS: Envelopes containing proposals, guarantee, and other proposal documents shall be sealed, marked and addressed as follows:

METROPOLITAN TRANSIT AUTHORITY
OFFICE OF PROCUREMENT PLAN ROOM
1900 Main St.
P.O. Box 61429
Houston, Texas 77208-1429

NOTE: Identify the envelope containing a proposal with the Project Title, Request for Proposal Number, proposal due date and Proposer's company name and address.

2 TECHNICAL PROPOSAL
(to be submitted by proposer)

3 BUSINESS ASSURANCE STATEMENT

The undersigned certifies that he/she has read, understands and agrees to be bound by the small business provisions set forth in this Solicitation. The undersigned further certifies that he/she is legally authorized by the Bidder/Contractor to make the statements and representations in this Solicitation and that said statements and representations are true and accurate to the best of his/her knowledge and belief. The undersigned agrees to attain the small business utilization percentages of the total offer amount as set forth below:

Small Business Contract Goal Commitment = __%

The undersigned will enter into formal agreement(s) for work to be identified on the "Contractor Utilization Plan Form" form conditioned upon execution of a contract with METRO and agrees to include the two assurance statements below in all subcontracts. **Copies of the subcontract agreements will be submitted to the Contracting Officer within 30 days of contract award and within 30 days of the addition of new subcontractors to the Contractor Utilization Plan.**

The undersigned certifies that the firm shown below has not discriminated against any subcontractors because of race, color, religion, sex, age, disability or ethnic or national origin, but has provided full and equal opportunity to all potential subcontractors irrespective of race, color, religion, sex, age, disability, or ethnic or national origin.

The undersigned understands that if any of the statements and representations are made knowing them to be false or there is a failure to implement any of the stated intentions, objectives, goals, and commitments set forth herein without prior approval of METRO's President & Chief Executive Officer or duly authorized representative, the Bidder/Contractor will be subject to the loss of any contract or the termination thereof resulting from this bid and could be ineligible for future METRO contract awards.

Signature: _____

Title: _____ Date of Signing: _____

Firm or Corporation: _____

Address: _____

Telephone Number: _____

4 CERTIFICATION OF RESTRICTIONS ON LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief, that:

- 1) No federal appropriated funds have been or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an office or employee of any agency, a member of Congress, an officer or employee of Congress in connection with the awarding of any federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- 2) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
- 3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance is placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, title 31 U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Executed this _____ day of _____, 2017.

Company Name: _____

By: _____
(Signature of Company Official)

(Title of Company Official)

5 DEBARMENT AND SUSPENSION FORM

The undersigned certifies, by submission of this certification, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

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

I hereby certify that I am authorized to execute this certification on behalf of the Company and certify the truthfulness and accuracy of the contents herein or attached hereto to the best of my belief. The Company does/does not (strike one) have in-house legal counsel.

Company Name: _____

By: _____
signature of company official) Date

(title of company official)

The following shall also be completed if the Company has in-house legal counsel:

The undersigned legal counsel for _____ hereby certifies that _____ has authority under State and local law to comply with the subject assurances and that the certification above has been legally made.

Signature of Company's Attorney Date

6 DISPUTES RESOLUTION PROCESS

METRO hereby provides the proposer the opportunity to select a contract disputes process for resolving disputes by utilizing either a METRO Disputes Appeals Committee or non-binding third party arbitration.

Proposer shall designate on this form, by initialing the appropriate blank below, the type of disputes resolution process (Disputes Appeals Committee or non-binding third party arbitration) that it elects to apply to any contract resulting from this solicitation.

(initial your selection)

____ METRO DISPUTES APPEAL COMMITTEE

If the Proposer selects this process, the wording of the Contract Disputes Article will read as follows:

Any dispute concerning a question of fact arising under this Contract which is not disposed of by agreement will be decided by the Contracting Officer, who will reduce his decision to writing and mail or otherwise furnish a copy thereof to the Contractor. The decision of the Contracting Officer will be final unless, within ten (10) calendar days from the date of receipt of such copy, the Contractor mails or otherwise furnishes to the Contracting Officer a written appeal addressed to the METRO Contract Appeals Committee. The Contract Appeals Committee will be designated by the President & Chief Executive Officer and will hear the Contractor's appeal and make a recommendation to the President & Chief Executive Officer for the final decision. In connection with any appeal proceeding under this Article, the Contractor will be afforded an opportunity to be heard and to offer evidence in support of his appeal. The decision of the President & Chief Executive Officer will be final and conclusive with respect to the Contractor's administrative remedies under this Disputes Article. Pending final decision of a dispute hereunder, the Contractor shall proceed diligently with the performance of the Contract and in accordance with the Contracting Officer's decision. This Disputes Article does not preclude consideration of questions of law in connection with decisions provided for above. Nothing in this Contract, however, shall be construed as making final the decision of any administrative official, representative, or committee on a question of law.

____ NON-BINDING THIRD PARTY ARBITRATION

If the Proposer selects this process, the wording of the Contract Disputes Article will read as follows:

A. Any dispute concerning a question of fact arising under this Contract which is not disposed of by agreement will be decided by the Contracting Officer, who will reduce his decision to writing and mail or otherwise furnish a copy thereof to the Contractor. The decision of the Contracting Officer will be final unless, within ten (10) calendar days from the date of receipt of such copy, the Contractor mails or otherwise furnishes to the Contracting Officer a written appeal of the final decision.

B. Upon receipt of written appeal, an arbitrator mutually acceptable to METRO and the Contractor shall be selected. Unless otherwise agreed by the parties, arbitrators shall be selected through the American Arbitration Association. Unless otherwise agreed by the parties, the arbitrator shall schedule a hearing within ten (10) days of his/her selection. The hearing shall be informal but either party has the right to be represented by counsel if it so desires. No post hearing brief shall be filed or transcripts made. Either party may file a written statement of position at the hearing. There shall be no formal rules of evidence. The hearing shall normally be completed within one (1) day. The arbitrator shall render a written recommendation within three (3) working days after the conclusion of the hearing. By mutual agreement of the parties, the time for rendering a decision may be extended for an additional two (2) working days. The recommendation of the arbitrator shall be based on the record before the arbitrator and should include a brief written explanation of the basis for the recommendation. The written findings of the arbitrator shall be submitted to the President & Chief Executive Officer who shall make the final decision on the dispute. Costs of the arbitration, including transportation, travel, lodging and any other directly related charges by the arbitrator or the American Arbitration Association, shall be shared equally by METRO and the Contractor.

C. The decision of the President & Chief Executive Officer will be final and conclusive with respect to the Contractor's administrative remedies under this Disputes Article. Pending final decision of a dispute hereunder, the Contractor shall proceed diligently with the performance of the Contract and in accordance with the Contracting Officer's decision. This Disputes Article does not preclude consideration of questions of law in connection with decisions provided for above. Nothing in this Contract, however, shall be construed as making final the decision of any administrative official, representative, or committee on a question of law.

(In the event the successful proposer fails to select a method of disputes resolution, as provided for above, any subsequent contract will incorporate the "Disputes Appeal Committee" process for disputes resolution)

7 PROPOSER'S QUESTIONNAIRE

Name of Company: _____

Address of Company: _____

Location of office responsible for providing services if different from above:

Geographical Service Area: _____

Texas Taxpayer Number: _____

NOTE: Each Consultant and/or subcontractor anticipated to be utilized in performance of these services should complete, where applicable, this questionnaire and submit along with the Prime Proposer's proposal.

A. Has your firm ever been audited by METRO? Yes ____/No ____

B. If yes, the date of the last audit was: _____

C. Have you attached a copy of your firm's last annual financial (profit/loss) statement?

Yes ____/No ____

D. All insurance to be furnished to METRO by a Consultant in performance of a contract, must be on policies written by insurance companies licensed to operate within the State of Texas and have a minimum A.M. Best rating of B+ or greater:

VI or greater as shown in the latest publication of the Best's Key Rating Guide. Please identify below, the name of your intended insurance carrier and their rating under the latest Best's Key Guide Rating.

Insurer's Name: _____

Best Rating: _____

E. Will your firm be able to provide METRO with a certificate for the insurance coverages and amounts specified by METRO in the RFP?

Yes ____/No ____

F. If insurance requirements are not specified in the proposal, does your firm agree (on an award of the Contract) to provide METRO with a certificate of insurance, which will identify METRO as an added insured, to their standard corporate policy of the coverages and amounts stated therein?

Yes ____/No ____

G. Is your firm aware of and will it comply with Government Code, Title 10, Chapter 2251, Vernon Texas Codes Annotated, when making payments to subcontractors?

Yes ____/No ____

H. Does your firm agree to (in the event of an award) make corporate data and records available to METRO (as they relate to the Contract) for audit during performance of and for a period of three (3) years after Contract completion?

Yes ____/No ____

I. Your firm maintains their accounts on (check one that is applicable):

(1) An Accrual Basis Accounting System? _____

(2) A Cash Basis Accounting System? _____

J. Are your firm's accounting records subjected to an annual independent audit?

Yes ____/No ____

(If yes, kindly furnish us a copy of CPA reports for the last two (2) years.)

K. Has your firm recently been audited by a cognizant Federal Government Audit Agency?

Yes ____/No ____

If yes:

(1) By which agency? _____

(2) Periods covered by the audit: _____

L. If previously audited by a Federal Auditing Agency, have you attached a copy of the latest audit performed by such agency?

Yes ____/No ____

M. Has your firm established project accounting records to record costs by individual projects?

Yes ____/No ____

N. Are the costs in these records used as the basis for your firm's financial status reports and billing purposes?

Yes ____/No ____

O. Is the building where the firm is located (check one that is applicable):

(1) Leased _____

(2) Corporately owned _____

(3) Individually owned _____

P. Does the firm post credits for rebates, returns and allowances as a reduction to expenditures?

Yes ____/No ____

Q. Does the firm have other branches operating in other places?

Yes ____/No ____

If yes:

(1) How many? _____

(2) Are separate accounting reports prepared for each branch?

Yes ____/No ____

R. What is the address and telephone number of your firm's headquarters?

S. What is the address of the office/location where your firm's financial records are kept/stored?

T. What is your firm's fiscal year ending date? _____

U. Who at your office would be the METRO Auditor's principal contact? Phone Number?

V. If your firm has FAX and e-mail capacity, what is the number and address?

W. What are your firm's office hours?

X. Does your firm currently employ or has it ever employed, at any time over the past twelve (12) months, any current or former METRO employees, associates, or representatives in any capacity whatsoever?

Yes ____/No ____

If answer is Yes, please provide on a separate sheet of paper the name of the individual, the purpose of employment, and the period employed.

Y. Does your firm currently employ or carry on it's payrolls any individual of a nationality other than United States citizen?

Yes ____/No ____

If yes, are they known to have entered and are working in the United States in accordance with the established laws of the United States Immigration and Naturalization Authority?

Yes ____/No ____

Z. List names, titles, and telephone numbers of individuals authorized to negotiate with METRO in connection with this Request for Proposal.

Name	Title	Telephone No.
------	-------	---------------

Name	Title	Telephone No.
------	-------	---------------

AA. How many years has your organization been in business as a Consultant under your present business name? _____ years

BB. How many people are currently employed by your firm?

1. In Harris County? _____

2. Outside Harris County? _____

CC. List the names of personnel who will be directly responsible for or in any way involved in providing the required services. Resumes must be included for named personnel.

Name	Position/Title

DD. Have you or your organization, or any officer or partner thereof, failed to complete a Contract? _____

If so, give details:

EE. Provide a list of references, including contact name and telephone number for any projects your firm was unable to complete (include projects from which your firm was removed, terminated, contract not extended, or lost due to new broker within the last five years, describing circumstances surrounding these events.

FF. Is any litigation pending against your organization that will affect your company's ability to perform the required services?

Yes _____ No _____

If so, give details:

GG. Name your principal financial institution for financial responsibility reference.

Name of Bank: _____

Street Address: _____

City and State: _____ Telephone: _____

Officer familiar with Proposer's account: _____

HH. State your firm's annual average receipts over the past 3 fiscal years

\$ _____

II. List names of clients (other than individuals), including public bodies, for whom you have furnished the same or similar type service.

Name of Client	Business Address	Type of Business	Telephone/E-mail
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

By signature below, Proposer/Contractor represents the following: (1) the business/company contracting with METRO is in good standing with the state of Texas; (2) the business/company is authorized to transact business in the state of Texas; and (3) the business/company does not have any outstanding debts (including, but not limited to, tax liens) that affect Proposer/Contractor's ability to transact business in the state of Texas. Proposer/Contractor shall provide METRO proof to support the above representations.

The undersigned certified that he/she is legally authorized by the proposer to make the statements and representations contained in this document, and represents and warrants that the foregoing information is true and accurate to the best of his/her knowledge, and intends that the Metropolitan Transit Authority, Harris County, Texas, rely thereon in evaluating the proposer.

Name of Company: _____

Signature: _____

Title: _____

Date: _____

8 CONTRACTOR UTILIZATION PLAN FORM

INSTRUCTIONS TO COMPLETING CONTRACTOR UTILIZATION PLAN FORM

- The Contractor Utilization Plan outlines the Proposer/Bidder's team. All team members must be listed on the form regardless of certification status. Make additional copies of the form if needed to include all team members.
- Information to be provided:
 - Name, contact information and tax identification number of Prime, Subcontractors and Suppliers
 - Description of work to be performed by Prime, Subcontractors, and products to be provided by the Suppliers
 - Certification status of Prime, Subcontractor and Suppliers.
 - Percentage of the contract the Prime and each Subcontractor and Supplier will perform. Total should equal 100%
 - **Price is only included for Invitations for Bid and on the final team plans for Requests for Qualifications or Proposals.**
- Section 1 – Prime Contractor – this section is for the Proposer/Bidder's information.
 - Contact and tax identification information
 - Type of work the Prime will perform
 - The certification status of the Prime
 - Percentage of the contract the Prime will perform
 - The dollar values of the contract for work performed by the Prime (see Information note regarding price information)
- Section 2 – Subcontractors – this section is for all Subcontractors' information regardless of SBE/DBE certification status.
 - Contact and tax identification information
 - Type of work the Subcontractor will perform
 - The certification status of the Subcontractor **Proof of Certifications must be attached to the form. Confirm acceptable certification in solicitation documents or on METRO website www.ridemetro.org/opportunities/ - Small Business**
 - Percentage of the contract the Subcontractor will perform
 - The dollar values of the contract for work performed by the Subcontractor (see Information note regarding price information)
- Section 3 – Suppliers – Manufactures – this section is for all Supply Manufacturer's information.
 - Contact and tax identification information
 - Type of product the Manufacturer will provide
 - The certification status of the Manufacturer. **Proof of Certifications must be attached to the form. Confirm acceptable certification in solicitation documents or on METRO website www.ridemetro.org/opportunities/ - Small Business**
 - Percentage of the contract the Manufacturer will provide – products provided by the Manufacturer are counted at 100%
 - The dollar values of the contract for work performed by the Manufacturer (see Information note regarding price information)
- Section 4 – Suppliers – Dealers – this section is for all Supply Dealer information.
 - Contact and tax identification information
 - Type of product the Dealer will provide
 - The certification status of the Dealer. **Proof of Certifications must be attached to the form. Confirm acceptable certification in solicitation documents or on METRO website www.ridemetro.org/opportunities/ - Small Business**
 - Percentage of the contract the Dealer will provide – products provided by the Dealer are counted at 60%
 - List percentage of effort at 100%
 - List percentage of effort at 60% - this is the amount that will be counted towards the Small Business goal if provided by METRO certified Small Business or TUCP certified Disadvantaged Business Dealer
 - The dollar values of the contract for work performed by the Dealer (see Information note regarding price information)

Bidder/Proposer presents the following participants in this solicitation and any resulting Contract.

Section 1 – PRIME CONTRACTOR		Type of Work to be Performed or Materials Supplied	Indicate if SBE/DBE Y/N		Percent of Contract Effort	Price (IFB ONLY)
			SBE	DBE		
Name of Business	_____					
Tax ID No.	_____					
Business Address	_____					
Telephone No.	_____					
Fax No.	_____					
Contact Person	_____					
Email Address	_____					
Section 2 – SUBCONTRACTORS		Type of Work to be Performed or Materials Supplied	Indicate if SBE/DBE Y/N		Percent of Contract Effort	Price (IFB ONLY)
			SBE	DBE		
Name of Business	_____					
Tax ID No.	_____					
Business Address	_____					
Telephone No.	_____					
Fax No.	_____					
Contact Person	_____					
Email Address	_____					
Name of Business	_____					
Tax ID No.	_____					
Business Address	_____					
Telephone No.	_____					
Fax No.	_____					
Contact Person	_____					
Email Address	_____					

Bidder/Proposer presents the following participants in this solicitation and any resulting Contract.

Section 3 – SUPPLIERS – MANUFACTURER 100%		Counts for 100% toward small business goal when purchased from small business manufacturer (see Instructions to Bidders/Proposers).				
		Type of Work to be Performed or Materials Supplied	Indicate if SBE/DBE Y/N		Percent of Contract Effort (100%)	Price (IFB ONLY)
			SBE	DBE		
Name of Business	_____					
Tax ID No.	_____					
Business Address	_____					
Telephone No.	_____					
Fax No.	_____					
Contact Person	_____					
Email Address	_____					
Name of Business	_____					
Tax ID No.	_____					
Business Address	_____					
Telephone No.	_____					
Fax No.	_____					
Contact Person	_____					
Email Address	_____					
Name of Business	_____					
Tax ID No.	_____					
Business Address	_____					
Telephone No.	_____					
Fax No.	_____					
Contact Person	_____					
Email Address	_____					

Bidder/Proposer presents the following participants in this solicitation and any resulting Contract.

Section 4 – SUPPLIERS – DEALERS 60%		Counts for 60% toward small business goal when purchased from small business regular dealer (see Instructions to Bidders/Proposers).					
		Type of Work to be Performed or Materials Supplied	Indicate if SBE/DBE Y/N		Percent of Contract Effort		Price (IFB ONLY)
			SBE	DBE	% of Effort	At 60%	
Name of Business	_____						
Tax ID No.	_____						
Business Address	_____						
Telephone No.	_____						
Fax No.	_____						
Contact Person	_____						
Email Address	_____						
Name of Business	_____						
Tax ID No.	_____						
Business Address	_____						
Telephone No.	_____						
Fax No.	_____						
Contact Person	_____						
Email Address	_____						

TOTAL AMOUNT OF PROPOSAL

SB Goal

PRIME:	\$ _____	_____ %
SUBCONTRACTOR(S):	\$ _____	_____ %
SUPPLIER(S) MANUFACTURERS:	\$ _____	_____ %
SUPPLIERS(S) DEALERS:	\$ _____	_____ %
TOTAL AMOUNT:	\$ _____	_____ %

The Contractor agrees to adhere to this Plan submitted unless a waiver is received from the Office of Small Business. Any changes in the Plan regarding the proposed use of certified subcontractors in discharging the contract duties must be approved by the Office of Small Business. The approval of the Office of Small Business will not be unreasonably withheld upon a showing of good cause to make the change.

Submitted By: _____
Signature of Owner/Officer of Business (Date)

Business Name: _____

Address: _____

Telephone/Email: _____

9 CONTRACTOR UTILIZATION PLAN PLEDGE

Copies of the subcontract agreements will be submitted to the Contracting Officer within 30 days of contract award and within 30 days of the addition of new subcontractors to the Contractor Utilization Plan and will include the clauses below.

Pledge of Prompt Payments

I pledge to pay all subcontractors within five (5) business days after receiving payment from METRO for amounts previously invoiced for work performed or materials furnished under the contract.

Signature: _____

Title: _____

Date: _____

METRO's Nondiscrimination Mandate

I affirm that _____(company name) adheres to METRO's Nondiscrimination Mandate and has not discriminated against any subcontractors in considering subcontracting opportunities based on race, sex, religion or ethnic origin, age or disability.

Signature: _____

Title: _____

Date: _____

(FOR CONSTRUCTION CONTRACTS)

I pledge to release the retainage of all Subcontractors within thirty (30) days after satisfactory completion and approval of work performed. Subcontractors may petition the Prime Contractor to make the final payment and may notify METRO of the request. As METRO releases retainage for payment to the Subcontractor, the Prime Contractor is required to immediately (within 15 days) pay the Subcontractor. The release of retainage will be made to the Subcontractor regardless of the prime invoicing METRO.

Signature: _____

Title: _____

Date: _____

10 SUBCONTRACTOR/SUPPLIER LETTER OF INTENT

PLEASE SUBMIT SEPARATE FORMS FOR **EACH SUBCONTRACTOR/SUPPLIER**

For use by submitters to identify subcontractors and suppliers.

Solicitation No.: _____

Project Title: _____

Prime Contractor: _____

Subcontractor/Supplier: _____

Small Business: Yes No

Disadvantage Business: Yes No

Contact Name: _____

Address: _____

Phone: _____ Fax: _____

Period of Performance: _____

Description of proposed materials or services to be performed under Contract Utilization Plan:

Signature of Subcontractor/Supplier

Title

Signature of Prime Contractor

Title

SECTION III - FORMS FOR PROPOSING/AWARD

1 SOLICITATION AWARD FORM

**METROPOLITAN TRANSIT AUTHORITY OF HARRIS COUNTY TEXAS
REQUEST FOR PROPOSALS**

=====
Requisition No. UR1500997
RFP No: 4017000105 Date of RFP: 01/16/17
Contract No. []
Description of Project: Employment Background Investigations
=====

(TO BE COMPLETED BY PROPOSER AT THE CONCLUSION OF NEGOTIATIONS OF THE CONTRACT)
CONTRACTOR NAME AND ADDRESS:
(Full Name of Firm, Corporation, Partnership, Joint Venturer - Type or Print)

_____ PHONE: () _____
_____ FAX NO: () _____
_____ EMAIL: _____

=====
In compliance with the above referenced Request for Proposals, the undersigned hereby proposes to furnish all of the resources necessary to complete the above referenced project for the total cost listed in Section III, Proposal Amount/Schedule of Items and Prices herein and in accordance with the Contract.

Any resulting contract will consist of this form and Sections III through XII of the original solicitation.

Upon written acceptance of this offer, executed by METRO and mailed or otherwise furnished, the proposer/ contractor will within fourteen (14) calander days (unless a longer period is allowed) after receipt of award documents, provide required certification of insurance, bonds and other documentation as may be required.

The resulting contract sets forth the entire agreement between the parties with respect to the subject matter thereof, and Supersedes and replaces all proposals, negotiations, representations, and implied obligations. The obligations, liabilities and remedies set forth herein are exclusive and shall operate as limitations on any action brought in connection with this Contract, including an action in tort. The resulting contract is binding upon and shall inure to the benefit of the parties hereto and their successors and permitted assigns, but shall not inure to the benefit of any third party or other person.

=====

OFFER
(TO BE COMPLETED AND SIGNED BY CONTRACTOR)

SIGNATURE OF CONTRACTOR:

ATTEST:

BY: _____
(MUST BE SIGNED BY AUTHORIZED PERSON)

BY: _____

NAME: _____

NAME: _____

TITLE: _____

TITLE: _____

DATE: _____

Note: 1) If Joint Venturer, each party shall provide the above information and sign the offer.

=====

ACCEPTANCE AND AWARD
(TO BE COMPLETED AND SIGNED BY METRO)

Contract No. _____

METRO and the Contractor have executed this Contract and it shall be effective on the ____ day of _____, 201__.

METROPOLITAN TRANSIT AUTHORITY
OF HARRIS COUNTY

Executed for and on behalf of the Metropolitan Transit Authority pursuant to Resolution No. _____ of the Board of Directors on the ____ day of _____, 201_ and on file in the office of the Assistant Secretary of the Authority.

BY: _____
Name: Michael Kyme
Title: Chief Procurement Officer

APPROVED:

Name: Debbie Sechler
Title: Executive Vice President, Administration

Name: Arthur C. Smiley III
Title: Chief Financial Officer

APPROVED AS TO FORM:

Name: Alva Treviño
Title: General Counsel

ATTEST:

Title: Assistant Secretary

2 PROPOSAL AMOUNT/SCHEDULE OF ITEMS AND PRICES

PROPOSER: _____

Contractor agrees to furnish all resources necessary to perform Pre-Employment Background Investigations, in accordance with the Scope of Services as defined in Exhibit "A", and the terms and conditions proposed Contract at the below price:

I. Pre-employment Background Investigation Services

<u>Item No.</u>	<u>Services</u>	<u>Unit</u>	<u>Price</u>
001.	Pre-employment Background/Investigation Services Services in accordance w/scope of services Level I	Each	\$ _____
002.	Pre-employment Background/Investigation Services Services in accordance w/scope of services Level II	Each	\$ _____
003.	Pre-employment Background/Investigation Services Services in accordance w/scope of services Level III	Each	\$ _____

3 KEY PERSONNEL FORM

PRIME CONTRACTOR

TEL () -

FAX () -

E-MAIL: _____

KEY PERSONNEL (PRIME CONTRACTOR)

Name (phone no., fax, and e-mail if other than above)

NAME: _____

TEL () _____

FAX () _____

E-MAIL: _____

SUBCONTRACTOR A

TEL () -

FAX () -

E-MAIL: _____

KEY PERSONNEL (SUBCONTRACTOR)

Name (phone no., fax, and e-mail if other than above)

NAME: _____

TEL () _____

FAX () _____

E-MAIL: _____

SUBCONTRACTOR B

TEL () -

FAX () -

E-MAIL: _____

KEY PERSONNEL (SUBCONTRACTOR)

Name (phone no., fax, and e-mail if other than above)

NAME: _____

TEL () _____

FAX () _____

E-MAIL: _____

SECTION IV - DELIVERIES OR PERFORMANCE ARTICLES

1 DEFINITIONS

A. "METRO" shall mean Metropolitan Transit Authority of Harris County, Texas.

B. The term "President & Chief Executive Officer" means the President & Chief Executive Officer of the Metropolitan Transit Authority and the term "the duly authorized representative" means any person specifically authorized to act for the President & Chief Executive Officer. These representatives are authorized to obligate METRO by executing this Contract, and any modification thereto.

C. The term "Contracting Officer" means the Contract Administrator who has been designated the responsibility, by the METRO Chief Procurement Officer, for overall administration of the Contract, excluding the execution of contract modifications.

D. The term "Project Manager" means the METRO technical representative who has been designated as having the responsibility for assessing the Contractor's technical performance and progress; inspecting and periodically reporting on such performance and progress during the stated period of performance, and finally certifying as to the acceptability of the Contractor's work in its entirety or any portion thereof, as required by the Contract documents.

E. Depending on the dispute resolution process selected by the Contractor at the time of bidding:

1. The term "Contract Appeals Committee" means the METRO administrative body designated by the President & Chief Executive Officer to hear a Contractor's appeal submitted under the "Disputes" Article of this Contract.

2. The term "Arbitrator" means the individual selected by both METRO and the Contractor to hear an appeal submitted under the "Disputes" Article of this Contract.

F. "Contractor" shall mean the individual, partnership, corporation, organization, or association contracting with METRO to furnish all materials, goods and work defined herein.

G. The term "Subcontract" means any agreement including purchase orders (other than one involving an employer - employee relationship) entered into between the Contractor and a subcontractor calling for services, labor, equipment and/or materials required for Contract performance, including any modifications thereto.

H. The terms "Subcontractor", "Subcontractor" and "Supplier" mean any individual, partnership, firm, corporation or joint venture that contracts with the Contractor to furnish services, labor, equipment and/or materials under this Contract. As used herein, the terms "Subcontractor", "Subcontractor and "Supplier" are synonymous.

2 SERVICES TO BE PERFORMED

The Contractor shall furnish all necessary resources required to perform Employment Background Investigations in accordance with the terms and conditions of this Contract. Specific services to be performed are listed in the "Scope of Services" attached hereto as Exhibit "A", and made a part hereof.

3 CONTRACT TERM

A. This Contract shall be effective for a period of Two (2) years from the execution date of the contract. Additionally, at METRO's sole option, this Contract shall be renewable for One (1) One (1) year option period, unless otherwise extended or terminated by METRO in accordance with the terms and conditions of this Contract.

B. In the event the above option is not exercised and additional time is required by METRO to initiate a new contract, Contractor agrees to continue providing services to METRO for a period not-to-exceed six (6) months at the same prices, terms and conditions of the original contract.

4 TEXAS ETHICS COMMISSION (TEC) ELECTRONIC FILING

In the event this Contract requires the approval of METRO's Board of Directors, the Contractor shall submit to METRO, after notification that METRO's Board has authorized the Contract and prior to final execution of the Contract, a completed, signed and notarized Form 1295 generated by the Texas Ethics

Commission's (the *TEC*) electronic filing application in accordance with the provisions of Section 2252.908 of the Texas Government Code and the rules promulgated by the TEC (a *Form 1295*). The Contractor hereby confirms and agrees to submit such forms with the TEC through its electronic filing application at: https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm

SECTION V - INSPECTION AND ACCEPTANCE ARTICLES

1 INSPECTION OF SERVICES

A. The Contractor shall provide and maintain a quality control and service inspection system acceptable to METRO covering the services under this Contract. Complete records of all inspection services performed by the Contractor shall be maintained and made available to METRO during Contract performance and for a three (3) year period after the term of the Contract.

B. METRO has the right to inspect and test all services called for by the Contract, to the extent practicable at all times and places during the term of the Contract. METRO shall perform inspections and tests in a manner that will not unduly delay the services.

C. If any of the services do not conform with Contract requirements, METRO may require the Contractor to perform the services again in conformity with Contract requirements, at no additional compensation.

D. When the defects in services cannot be corrected by performance, METRO may:

1. require the Contractor to take necessary action to ensure that future performance conforms to Contract requirements; and
2. reduce the Contract price to reflect the reduced value of the services performed.

E. If the Contractor fails to promptly perform the services again or take the necessary action to ensure future performance in conformity with Contract requirements, METRO may:

1. by contract or otherwise, perform the services and charge to the Contractor any cost incurred by METRO that is directly related to the performance of such services; or
2. terminate the Contract for default.

SECTION VI - CONTRACT ADMINISTRATION DATA ARTICLES

1 COMPENSATION

A. As full consideration for the satisfactory performance by the Contractor of this Contract, METRO shall pay to the Contractor compensation in the amount of _____ and ___/100 Dollars (\$_____.____), in monthly installments in accordance with Section III, No. 2, less any prompt payment discount earned or set forth in paragraph B, and in accordance with the payment provisions of this Contract.

B. Prompt payment discount(s): ____%. In connection with any discount offered for prompt payment, time shall be computed from the date of receipt of a properly prepared invoice by METRO or acceptance of all materials and goods furnished and work performed, whichever is later. For the purposes of computing the discount earned, payment shall be considered to have been made on the date that the payment is mailed or the date which an electronic funds transfer was made.

2 INVOICING AND PAYMENT

A. The Contractor shall submit an original invoice for payment to the address shown below for Pre-Employment Background Investigations, which have been inspected and accepted by METRO:

Sr. Director of Accounting/Controller
METROPOLITAN TRANSIT AUTHORITY
1900 Main St., 5th Floor (77002)
P.O. Box 61429
Houston, Texas 77208-1429

B. METRO shall pay the amount due the Contractor under this Contract after:

1. Acceptance of services;
2. Presentation of a properly prepared invoice;
3. Presentation with each invoice a print out of METRO's online Contract Audit Screen demonstrating payments to subcontractors and confirmation of receipt of payment by subcontractors.
4. Presentation with each invoice of a print out of METRO's online Subcontractor Invoice Report demonstrating subcontractor's invoices for the billing period along with a copy of the subcontractor's invoice. The Contractor's invoice to METRO should include subcontractor's invoice for the same period of performance.
5. Presentation with each invoice of a release of all claims against METRO arising by virtue of this Contract, other than claims, in stated amounts, that the Contractor has specifically excepted from the operation of the release. A release may also be required of the assignee if the Contractor's claim to amounts payable under this Contract has been assigned. The Contractor shall complete a "Contractor's Release" form, Exhibit "B", or other Contractor's release form acceptable to METRO.
6. If the Contractor has previously been paid for items or services that have later been found deficient, defective or otherwise unacceptable, subsequent invoices may be adjusted accordingly. In such instances, METRO shall provide the Contractor a written explanation for such adjustments.

C. Subcontractor and Supplier Payments:

1. The Contractor shall provide payment to each subcontractor and supplier within five (5) business days after receiving payment from METRO for amounts previously invoiced for Work performed or materials furnished under the Contract. Subcontract payment provisions shall require payments to subcontractors within five (5) business days after the prime contractor received payment from METRO. Interest on late payments is subject to the provisions of Government Code, Title 10, Chapter 2251, Vernon's Codes Annotated regarding payments to subcontractors.
2. In the event of disputed amounts, the Contractor shall provide a written response to a subcontractor or supplier, with a copy to the Contracting Officer, specifically addressing any disputed amounts on invoices. The Contractor should resolve all disputed invoices at the earliest

time to avoid a delay in the submission of print out of METRO's on-line Contract Audit screen with subcontractor payment verification which could delay payment to the Contractor. In the event that the Contractor cannot resolve a subcontractor or supplier disputed invoice, the Contractor shall bring the matter to the attention of the Contracting Officer at the time of submitting the Contractor's invoice for payment. The Contracting Officer will investigate the situation and make a determination whether the Contractor's invoice should be processed for payment without the required Contract Audit verification. The Contracting Officer will not mediate the dispute between the Contractor and any subcontractor or supplier in the resolution of disputed invoices.

D. METRO's On-Line Contract Audit:

- 1. Invoices shall contain the Contract number and shall be accompanied by the print out of METRO's on-line Contract Audit screen documenting payments.
- 2. Failure of the Contractor to submit the print out of METRO's on-line Contract Audit screen, Subcontractor Invoice Report and/or subcontractor's invoices will be cause for the return of the invoice to the Contractor as an improperly prepared invoice.
- 3. In the event that no invoice is due for the past month, the print out of the METRO's on-line Contract Audit screen shall nevertheless be completed and forwarded to the Contracting Officer without subcontractor/supplier certifications.

E. METRO is exempt from payment of Federal Excise and Transportation Tax and Texas Limited Sales, Excise and Use Tax. METRO's Federal Excise Tax Number is 76-79-0020K and METRO's State Tax Exempt Number is 1-74-1998278-4. The Contractor's invoices shall not contain assessments of any of these taxes.

F. Payments will be made within thirty (30) business days after receipt of a properly prepared invoice, which includes documents such as the print out of the METRO's on-line Contract Audit screen, Subcontractor Invoice Report and copies of subcontractor invoices. Payments shall be considered made when METRO deposits the Contractor's payment in the mail or the date on which an electronic transfer of funds was made. Interest on payments under this Contract shall accrue and be paid only in accordance with the provisions of Government Code, Title 10, Chapter 2251, Vernon's Texas Codes Annotated which shall be the Contractor's sole remedy under this Article.

G. All material, goods and work covered by payments made shall, at the time of payment, become the sole property of METRO, but this provision shall not be construed as:

- 1. Relieving the Contractor from the sole responsibility for all material, goods and work upon which payments have been made or the restoration of any damaged work; or as
- 2. Waiving the right of METRO to require the fulfillment of all of the terms of the Contract.

3 CONTRACTOR REPRESENTATIVE

A. Prior to start of Contract performance, the Contractor shall advise METRO in writing of the primary and alternate representative (including phone number) who will have management responsibility for the total Contract effort to receive and act on technical matters and resolve problems of a contractual nature.

B. The Contractor who will be requiring access to any METRO property on a frequent basis (greater than 20 hours a week), will require a contractor badge. METRO's Project Manager is responsible for coordinating these badges with METRO's Facilities Maintenance Department. Badges will carry an expiration date of 90 days; if further access is required, METRO's Project Manager is required to resubmit a contractor badge request on your behalf to the Facilities Maintenance Department with the appropriate levels of approval.

C. At the termination of this Contract the Contractor shall return to METRO's Project Manager all METRO issued identification badges and METRORide cards for deactivation by METRO's Human Resources Department. The Contractor shall also immediately notify METRO's Project Manager and return such identification badges and METRORide cards for those Contractor employees whose services are no longer needed during the course of this Contract. The Contractor will be assessed a \$10.00 fee for each identification badge or METRORide cards that are lost or not returned to METRO.

4 NOTICES

All notices to either party by the other shall be delivered personally or sent by U.S. registered or certified mail, postage prepaid, addressed to such party at the following respective addresses for each:

Authority: Valencia Eaton(Contracting Officer)
METROPOLITAN TRANSIT AUTHORITY
OF HARRIS COUNTY, TEXAS
1900 Main St., 8th Floor (77002)
Post Office Box 61429
Houston, Texas 77208-1429

Contractor:

and shall be deemed given on the date so delivered or so deposited in the mail, unless otherwise provided herein. Either party hereto may change the above address by sending written notice of such change of address to the other in the manner provided for above.

SECTION VII - INSURANCE ARTICLES

1 CONTRACTOR'S INSURANCE

A. The Contractor shall purchase and maintain in effect during the entire period of this contract, including any maintenance period thereof, insurance of the types and with minimum limits of liability as stated below. Such insurance shall protect Contractor from claims which may arise out of or result from Contractor's operations whether such operations are performed by Contractor or by any subcontractor or by anyone for whose acts any of them may be liable.

ERRORS & OMISSIONS covering acts, error or omissions arising out of the rendering of or failure to render professional services, whether committed or alleged to have been committed by the Contractor or by its employees, subcontractors, consultants or other to whom the Contractor is legally responsible. The limit of liability shall not be less than:

\$1,000,000	Each Occurrence
\$1,000,000	Aggregate

If the Contractor maintains higher limit than the minimums shown above, METRO requires and shall be entitled to coverage for the higher limits maintained by the Contractor. Any available insurance proceeds in excess of the specific minimum limits of insurance and coverage shall be available to METRO.

The limits of liability as required above may be provided by a single policy of insurance or by a combination of primary, excess or umbrella policies. But in no event shall the total limits of liability available for any one occurrence or accident be less than the amount required above.

All policies of insurance presented as proof of compliance with the above requirements shall be on forms and with insurance companies approved by METRO. All such insurance policies shall be provided by insurance companies having Best's ratings of A- or greater and VI or greater (A-/VI) as shown in the most current issue of Best's Key Rating Guide. Policies of insurance issued by insurance companies not rated by Best's or having Best's ratings lower than A-VI will not be accepted as complying with the insurance requirements of the contract unless such insurance companies were approved in writing prior to award of contract.

B. Contractor agrees to waive all rights of subrogation or recovery against METRO and its directors and/or employees arising out of any claims for injury (ies) or damages resulting from the work performed by or on behalf of Contractor under this agreement and/or the use of any METRO premises or equipment in the performance of this agreement.

C. Proof of compliance with these insurance requirements shall be furnished to METRO in the form of an original certificate of insurance including the endorsements mentioned in section A. above, or copies of the applicable policy language effecting required coverage signed by an authorized representative or agent of the insurance company(ies), within fourteen (14) days of notice of award of contract and before any work under this contract will be allowed to commence. Certificates will be unacceptable unless they clearly show that all of the above stipulated requirements have been met. Renewal or replacement certificates shall be furnished METRO not less than seven (7) days prior to the expiration or termination date of the applicable policy (ies). Otherwise, METRO may halt all work under this contract upon expiration or other termination of any required coverage, and work will not be allowed to resume until a satisfactory renewal certificate is received.

D. Contractor shall require any and all subcontractors performing work under this contract to carry insurance of the types and with limits of liability as Contractor shall deem appropriate and adequate for the work being performed. Contractor shall obtain and make available for inspection by METRO upon request current certificates of insurance evidencing insurance coverages carried by such subcontractors.

2 INDEMNIFICATION AGREEMENT

A. CONTRACTOR AGREES TO AND SHALL INDEMNIFY AND HOLD HARMLESS METRO AND ITS DIRECTORS AND/OR EMPLOYEES FROM AND AGAINST ANY AND ALL CLAIMS, LOSSES, DAMAGES, CAUSES OF ACTION, SUITS AND LIABILITY OF EVERY KIND, INCLUDING ALL EXPENSES OF LITIGATION, COURT COSTS AND ATTORNEY'S FEES, FOR BODILY INJURY, SICKNESS, DISEASE OR DEATH OF ANY PERSON, OR FOR DAMAGES TO ANY PROPERTY, INCLUDING CONSEQUENTIAL DAMAGES OR LOSS OF USE THEREOF, BROUGHT OR RECOVERABLE BY THIRD PARTIES AGAINST METRO AND ITS DIRECTORS AND/OR EMPLOYEES AND ARISING OUT OF OR RESULTING FROM ANY NEGLIGENT ACT OR OMISSION BY CONTRACTOR IN THE PERFORMANCE OF THIS

CONTRACT.

B. THE INDEMNITY PROVIDED FOR IN THIS ARTICLE SHALL HAVE NO APPLICATION TO ANY CLAIM, LOSS OR DAMAGE, CAUSE OF ACTION, SUIT OR LIABILITY BROUGHT OR RECOVERABLE AGAINST METRO AND ITS DIRECTORS AND/OR EMPLOYEES TO THE EXTENT THE INJURY, DEATH OR DAMAGE RESULTS SOLEY FROM A GROSS NEGLIGENT ACT OR WILLFUL BEHAVIOR BY METRO.

SECTION VIII - SMALL BUSINESS PROGRAM ARTICLES

A. The Contractor hereby agrees to attain small business participation in the amount of ___% of the total Contract amount.

B. The Contractor shall enter into agreements for the work identified in the "Contractor Utilization Plan Form" (Plan) and submit copies of the agreements to the Contracting Officer within 15 days of contract award. The Agreements will include:

1. Prompt payment clause;
2. Non-discrimination clause,
3. Release of retainage clause, where applicable;
4. Business Assurance clauses,
5. Federal clauses, where applicable, and
6. Subcontractor's obligation to participate in the B2GNow Payment Compliance System.

C. The Contractor shall adhere to the Plan submitted, including self-performing a minimum 30% of the contract, unless a waiver is received from the Office of Small Business. Any changes in the Plan regarding the proposed use of certified subcontractors in discharging the contract duties must be approved by the Office of Small Business. The approval of the Office of Small Business will not be unreasonably withheld upon a showing of good cause to make the change. When adding a certified subcontractor to the "Plan", the Contractor must submit a copy of the subcontract agreement to the Contracting Officer within 15 days of receiving approval from the Office of Small Business

D. The Contractor's failure to comply with the aforementioned small business participation provisions and the Contractor Utilization Plan Pledge provisions may result in:

1. withholding of payment until such compliance is achieved or a waiver of the provisions is provided by METRO,
3. revocation of the benefits and incentives provided under the Program, or
4. the contract may be canceled, terminated or suspended in whole or in part.

E. Where applicable, the Contractor's Small Business goal achievement and compliance with the Small Business Program will be considered during evaluation for future METRO contracts.

F. The Contractor and subcontractors shall permit access to their books, records, and accounts by the Contracting Officer, Office of Small Business representative or a designated representative for the purpose of investigation to ascertain compliance with these specified requirements. Such records shall be maintained by the Contractor in a fashion which is readily accessible to METRO for a minimum of three (3) years following completion of this Contract. The Contractor will include this provision in the subcontractor agreements.

G. To ensure that all obligations under this Contract are met, METRO will conduct periodic reviews of the Contractor's small business efforts during Contract performance. The Contractor shall bring to the attention of METRO's Contracting Officer and Office of Small Business any situation in which regularly scheduled progress payments are not made to small business subcontractors. Failure to make prompt payment or to notify METRO could result in the action outlined in item D above.

H. The Contractor may review documents at METRO which specify:

1. Guidance for making determinations of small business participation in the Program;
2. The procedure used to determine whether a company is in fact a small business; and
3. Appeals procedure for denial of certification as a small business.

SECTION IX - SPECIAL TERMS AND CONDITIONS ARTICLES

1 HEALTH, SAFETY AND FIRST AID

A. METRO places and requires Contractor to place the highest importance and priority on health and safety for all services performed by Contractor at any METRO facility. At all METRO facilities, Contractor shall comply with all applicable fire, safety and health laws and regulations as well as any safety and health requirements of METRO. Contractor shall ensure that all of their employees are made aware of all safety, fire and health requirements and regulations applicable to the work to be performed pursuant to this Contract. METRO shall furnish Contractor with copies of all safety and health requirements of METRO which relate particularly to the services Contractor has been requested to perform and to the general safety of any particular METRO facility.

B. Contractor shall not permit to exist a hazardous, unsafe, unhealthy or environmentally unsound condition or activity over which it has control at a METRO facility. In the event Contractor becomes aware of any such condition or activity, it shall promptly notify METRO and immediately take whatever steps are necessary to eliminate, terminate, abate or rectify such condition. If METRO becomes aware of such condition or activity before it is known to Contractor, it shall notify Contractor and request Contractor's prompt corrective action. METRO shall take prompt corrective action with respect to any hazardous, unsafe, unhealthy or environmentally unsound condition or activity resulting from it activities or operations. Each party shall cooperate with the other to eliminate, terminate, abate and rectify any such condition.

C. In the case of any emergency, METRO shall make emergency first aid and related services available to the employees of Contractor to the same extent that such emergency first aid and related services would be available to an employee of METRO located at the same facility. Nothing contained herein shall be construed as imposing any duty upon METRO to provide emergency first aid treatment or related services to Contractor's employees where such emergency first aid treatment or related services are not already available to any employee.

2 CONTRACTOR'S EMPLOYEES

A. The Contractor shall screen all employees and require satisfactory personal references in order to determine character of prospective employees before hiring.

B. Contractor employees shall, while on duty at a METRO facility, wear in plain view an identification badge to be furnished by METRO, containing their name and status as temporary.

C. All employees of Contractor shall be neatly attired at all times in a manner that will reflect credit both upon Contractor and the facility in which they are working.

D. All Contractor and subcontractor employees shall be U.S. citizens or possess written documentation verifying legal authorization to work in the United States.

E. The Contractor shall require his employees to comply with the instructions pertaining to conduct and other regulations called to the attention of the Contractor by the Project Manager or his designee.

F. At the request of the Project Manager, the Contractor shall remove an employee from his work force that is found unacceptable or unsatisfactory by the Project Manager. It shall be the Contractor's responsibility to find a suitable replacement for the removed employee.

G. Contractor shall replace the removed worker, at Contractor's expense, with a suitable replacement within twenty four (24) hours after immediately removing the violating employee.

3 AVAILABILITY OF FUNDS FOR THE NEXT FISCAL YEAR

METRO's obligation for performance of this contract is contingent upon availability of funds from which payment for contract purposes can be made. No liability on the part of METRO for any payment may arise under this Contract until funds are made available for performance and until the Contractor receives notice of availability, in writing, by the Contracting Officer. Any option exercised by METRO which will be performed in whole or in part in a subsequent fiscal year is subject to availability of funds in the subsequent fiscal year and is governed by the terms of this Article.

4 MOST FAVORED CUSTOMER

The Contractor shall voluntarily provide METRO with the benefits of any more favorable terms it has , or negotiates, with any organization or facility whose circumstances and operations are substantially the same as those of METRO.

5 USE OF WORK PRODUCTS – ASSIGNMENT OF COPYRIGHT

A. Contractor conveys and assigns to the METRO its entire interest and full ownership worldwide in and to any work, invention, notes, plans, computations, databases, tabulations, exhibits, reports, underlying data, photographs and other work products, and any modifications and improvements to them (collectively “Documents”), and the copyrights, patents, trademarks, trade secrets, and any other proprietary rights therein (collectively “Proprietary Rights”) that Contractor, its agents, employees, contractors, and subcontractors (collectively “Authors”) develop, write, or produce under this Agreement.

B. The Authors shall not claim or exercise any Proprietary Rights related to the Works. If requested by METRO’s Project Manager, Contractor shall place a conspicuous notation on any Works which indicates that the METRO owns the Proprietary Rights.

C. Contractor shall execute all documents required by the Project Manager to further evidence this assignment and ownership. Contractor shall cooperate with the METRO in registering, creating, and enforcing Proprietary Rights arising under this Agreement. If Contractor’s assistance is requested and rendered under this Section, then METRO shall reimburse Contractor for all out-of-pocket expenses it incurs in rendering assistance, subject to the availability of funds. On termination of this Agreement, or if requested by the Project Manager, Contractor shall deliver all Works to the METRO. Contractor shall obtain written agreements from the Authors which bind them to the Terms in this Section. All Works developed, written, or produced under this Agreement for use as a contribution to a collective work; a part of a motion picture or other audiovisual work; a translation; a supplementary work; a compilation; an instructional text; a test; answer material for a test; or an atlas, are “works made for hire”.

D. Contractor may retain copies of the Documents for its archives. Contractor shall not otherwise use, sell, license, or market the Documents.

6 INTER-LOCAL/COOPERATIVE PURCHASE

The Contractor agrees that any agreement inclusive of pricing resulting from this solicitation is extended to other public entities (e.g., state agency, local government, State of Texas educational institutions) authorized by State law to participate under cooperative procurement contracts or Interlocal Agreements with the following understandings:

A. Unless specifically stated otherwise, any volume of products or services stated in this contract document reflects only products or services to be purchased by METRO and does not include potential purchases by other entities;

B. The Contractor shall establish a direct relationship with each entity concerning the placement of orders, issuance of the purchase order, contractual disputes, invoicing, payment and all other matters relating or referring to such entity’s access to the agreement.

C. Each entity is a financially separate entity and shall be solely responsible for the financial commitments of that entity;

D. METRO shall not be held liable for any costs, damages or other obligations incurred by any participating entity.

E. It is the entity’s decision whether or not to enter into an agreement with the awarded bidder/proposer.

F. Any purchases made by an entity shall be in accordance with each entity’s purchasing policy and procedures.

7 USE OF WORK PRODUCTS – ASSIGNMENT OF COPYRIGHT

A. Contractor conveys and assigns to the METRO its entire interest and full ownership worldwide in and to any work, invention, notes, plans, computations, databases, tabulations, exhibits, reports, underlying data, photographs and other work products, and any modifications and improvements to them (collectively "Documents"), and the copyrights, patents, trademarks, trade secrets, and any other proprietary rights therein (collectively "Proprietary Rights") that Contractor, its agents, employees, contractors, and subcontractors (collectively "Authors") develop, write, or produce under this Agreement.

B. The Authors shall not claim or exercise any Proprietary Rights related to the Works. If requested by METRO's Project Manager, Contractor shall place a conspicuous notation on any Works which indicates that the METRO owns the Proprietary Rights.

C. Contractor shall execute all documents required by the Project Manager to further evidence this assignment and ownership. Contractor shall cooperate with the METRO in registering, creating, and enforcing Proprietary Rights arising under this Agreement. If Contractor's assistance is requested and rendered under this Section, then METRO shall reimburse Contractor for all out-of-pocket expenses it incurs in rendering assistance, subject to the availability of funds. On termination of this Agreement, or if requested by the Project Manager, Contractor shall deliver all Works to the METRO. Contractor shall obtain written agreements from the Authors which bind them to the Terms in this Section. All Works developed, written, or produced under this Agreement for use as a contribution to a collective work; a part of a motion picture or other audiovisual work; a translation; a supplementary work; a compilation; an instructional text; a test; answer material for a test; or an atlas, are "works made for hire".

D. Contractor may retain copies of the Documents for its archives. Contractor shall not otherwise use, sell, license, or market the Documents.

8 COPYRIGHT AND PATENT INDEMNITY

Contractor warrants and represents to METRO that the licensed products do not infringe any patent, copyright, trademark or trade secret. In the event any legal proceedings are brought against METRO claiming an infringement of a patent, copyright, trademark or trade secret based on METRO's use of the licensed products, Contractor agrees to defend and indemnify METRO at Contractor's own expense any for any claims or such legal proceeding relating to such claim and to hold METRO harmless from any damage incurred or awarded as the result of settlement or judgment against METRO."

9 CONFIDENTIALITY OF METRO DATA AND INFORMATION

All information relating to METRO's operations which are designated confidential by METRO and made available to the Contractor in order to carry out this Contract, or which becomes available to the Contractor in carrying out this contract, shall be protected by the Contractor from unauthorized use and disclosure through the observance of the same or more effective procedural requirements as are applicable to METRO. Contractor shall not be required to keep confidential any data or information that is or becomes publicly available, is already rightfully in the Contractor's possession, is independently developed by the Contractor outside the scope of this Contract, or is rightfully obtained from third parties.

SECTION X - GENERAL TERMS AND CONDITIONS ARTICLES

1 COMPLIANCE WITH LAWS/PERMITS AND LICENSES

The Contractor shall give notices and comply with all federal, state and municipal laws, ordinances, rules, regulations and orders of any public authority bearing on the performance of this Contract, including, but not limited to, the laws referred to in this Contract. If the Contractor or METRO observes that this Contract is at variance therewith in any respect, the observing party shall promptly notify the other party in writing, and any necessary changes shall be adjusted by appropriate contract modification. Upon request, the Contractor shall furnish to METRO certificates of compliance with all such laws, ordinances, rules, regulations and orders. The Contractor shall also be responsible for obtaining all necessary permits and licenses required for performance under the Contract.

2 METRO-FURNISHED PROPERTY

A. METRO shall provide to the Contractor, at the times and locations stated in this Contract, the METRO-furnished property described in this Contract.

B. Title to METRO-furnished property shall remain with METRO. The Contractor shall use the METRO-furnished property only in connection with this Contract. The Contractor shall maintain adequate property control records of METRO-furnished property in accordance with sound industrial practice and shall make such records available for METRO's inspection at all reasonable times.

C. The Contractor shall inspect the METRO-furnished property prior to acceptance. Upon acceptance of METRO-furnished property, the Contractor assumes the risk and responsibility for its loss or damage, except:

- 1. For reasonable wear and tear;
- 2. To the extent the property is consumed in performing this Contract; or
- 3. As otherwise provided for by the provisions of this Contract.

D. The Contract performance period is based upon the expectation that METRO-furnished property, suitable for use, will be available to the Contractor at the times stated in the Schedule or if not stated, in sufficient time to enable the Contractor to meet the performance dates.

E. If the METRO-furnished property is not available to the Contractor by the required time, or is unsuitable for use as determined by the Engineer, the Contracting Officer shall, upon the Contractor's timely written request, make a determination of delay, if any, caused the Contractor, and shall make an adjustment in the Contract performance period. The right to adjustment in the performance period shall be the Contractor's exclusive remedy. METRO shall not be liable for suit for breach of Contract for:

- 1. Any delay in availability of METRO-furnished property;
- 2. Availability of METRO-furnished property in a condition not suitable for its intended use;
- 3. A decrease in, or substitution of, METRO-furnished property; or
- 4. Failure to replace METRO-furnished property for which METRO is responsible.

F. Upon completing this Contract, the Contractor shall follow the instructions of METRO regarding the disposition of all METRO-furnished property not consumed in the performance of this Contract.

3 SUBCONTRACTING

A. The Contractor shall not subcontract any portion of the work without obtaining the Contracting Officer's written consent thereto.

4 CHANGES

A. The President & Chief Executive Officer or the duly authorized representative may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this Contract in any one or more of the following:

- 1. Specifications or Description of services to be performed,
- 2. Time of performance (i.e., hours of day, days of the week, etc.),
- 3. Place of performance of the services,

B. If any such change causes an increase or decrease in the cost of, or the time required for, performance of any part of this Contract, whether or not changed by the order, the President & Chief Executive Officer or the duly authorized representative shall make an equitable adjustment in the Contract price, the time of performance, or both, and shall modify the Contract.

C. The Contractor must submit any "proposal for adjustment" under this Article within thirty (30) calendar days from the date of receipt of the written order. However, if the President & Chief Executive Officer or the duly authorized representative decides that the facts justify it, the President & Chief Executive Officer or the duly authorized representative may receive and act upon a proposal submitted before final payment of the Contract.

D. Failure to agree to any adjustment shall be a dispute under the "Disputes" Article of this Contract. However, nothing in this Article shall excuse the Contractor from proceeding with the Contract as changed.

E. Except for those changes properly authorized and executed as provided in this Article, the Contractor shall notify the Contracting Officer in writing promptly within fifteen (15) calendar days from the date that the Contractor identifies any METRO conduct (including actions, inactions and written or oral communications) that the Contractor regards as a change to the Contract terms and conditions. This notification shall contain all information available to the Contractor regarding the change. Contractor's failure to provide notification as required herein may jeopardize being compensated for the change if in fact a change has been made.

F. The parties agree that the terms and conditions of this contract may only be modified and/or amended by mutual agreement between the parties. Said mutually agreed upon amendment and/or modification shall be written and executed by both parties prior to becoming effective.

5 DISPUTES

The Contractor has elected the disputes resolution process below (marked X) with submittal of the disputes resolution form included in the proposal.

METRO DISPUTES APPEAL COMMITTEE

Any dispute concerning a question of fact arising under this Contract which is not disposed of by agreement will be decided by the Contracting Officer, who will reduce his decision to writing and mail or otherwise furnish a copy thereof to the Contractor. The decision of the Contracting Officer will be final unless, within ten (10) calendar days from the date of receipt of such copy, the Contractor mails or otherwise furnishes to the Contracting Officer a written appeal addressed to the METRO Contract Appeals Committee. The Contract Appeals Committee will be designated by the President & Chief Executive Officer and will hear the Contractor's appeal and make a recommendation to the President & Chief Executive Officer for the final decision. In connection with any appeal proceeding under this Article, the Contractor will be afforded an opportunity to be heard and to offer evidence in support of his appeal. The decision of the President & Chief Executive Officer will be final and conclusive with respect to the Contractor's administrative remedies under this Disputes Article. Pending final decision of a dispute hereunder, the Contractor shall proceed diligently with the performance of the Contract and in accordance with the Contracting Officer's decision. This Disputes Article does not preclude consideration of questions of law in connection with decisions provided for above. Nothing in this Contract, however, shall be construed as making final the decision of any administrative official, representative, or committee on a question of law.

NON-BINDING THIRD PARTY ARBITRATION

A. Any dispute concerning a question of fact arising under this Contract which is not disposed of by agreement will be decided by the Contracting Officer, who will reduce his decision to writing and mail or otherwise furnish a copy thereof to the Contractor. The decision of the Contracting Officer will be final unless, within ten (10) calendar days from the date of receipt of such copy, the Contractor mails or otherwise furnishes to the Contracting Officer a written appeal of the final decision.

B. Upon receipt of written appeal, an arbitrator mutually acceptable to METRO and the Contractor shall be selected. Unless otherwise agreed by the parties, arbitrators shall be selected through the American Arbitration Association. Unless otherwise agreed by the parties, the arbitrator shall schedule a hearing within ten (10) days of his/her selection. The hearing shall be informal but either party has the right to be represented by counsel if it so desires. No post hearing brief shall be filed or transcripts made. Either party may file a written statement of position at the hearing. There shall be no formal rules of evidence. The hearing shall normally be completed within one (1) day. The arbitrator shall render a written recommendation within three (3) working days after the conclusion of the hearing. By mutual agreement of the parties, the time for rendering a decision may be extended for an additional two (2) working days. The recommendation of the arbitrator shall be based on the record before the arbitrator and should include a brief written explanation of the basis for the recommendation. The written findings of the arbitrator shall be submitted to the President & Chief Executive Officer who shall make the final decision on the dispute. Costs of the arbitration, including transportation, travel, lodging and any other directly related charges by the arbitrator or the American Arbitration Association, shall be shared equally by METRO and the Contractor.

C. The decision of the President & Chief Executive Officer will be final and conclusive with respect to the Contractor's administrative remedies under this Disputes Article. Pending final decision of a dispute hereunder, the Contractor shall proceed diligently with the performance of the Contract and in accordance with the Contracting Officer's decision. This Disputes Article does not preclude consideration of questions of law in connection with decisions provided for above. Nothing in this Contract, however, shall be construed as making final the decision of any administrative official, representative, or committee on a question of law.

6 TERMINATION FOR CONVENIENCE OF METRO

A. METRO may terminate the Contract at any time after award of the Contract by written notice to the Contractor if METRO determines that such termination is in its best interest. Upon receipt of written notice of termination, the Contractor shall cease performance to the extent specified in the notice of termination. In the event of termination in whole, the Contractor shall prepare a final invoice within thirty (30) calendar days of such termination reflecting the service(s) actually furnished pursuant to the Contract and to the satisfaction of METRO, that have not appeared on any previous invoice.

B. METRO agrees to pay the Contractor, in accordance with the terms of the Contract, for conforming service(s) actually furnished and verifiable costs that have been incurred or will be incurred by the termination, which shall be the sole amount owed to the Contractor whether for damages or otherwise, by virtue of the termination of this Contract.

7 TERMINATION FOR DEFAULT

A. METRO may, subject to Paragraphs D. and E. below, by written notice of default to the Contractor, terminate this Contract in whole or in part if the Contractor fails to perform the services within the time and in the manner specified in this Contract or any extension thereof; or fails to perform any of the other provisions of this Contract.

B. METRO's right to terminate this Contract may be exercised if the Contractor does not cure the condition or conditions constituting default within ten (10) calendar days (or such longer period as may be authorized in writing by the Contracting Officer) after receipt of the notice from the Contracting Officer specifying the failure.

C. If METRO terminates this Contract, it may acquire, under the terms and in the manner the Contracting Officer considers appropriate, services similar to that terminated, and the Contractor will be liable to METRO for any excess costs.

D. The Contractor shall not be liable for any excess costs if the failure to perform the Contract arises from causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include:

1. Acts of God or of the public enemy,
2. Fires,
3. Floods,
4. Epidemics,
5. Quarantine restrictions,
6. Unusually severe weather,

7. Acts of terrorism.

In each instance, the failure to perform must be beyond the control and without the fault or negligence of the Contractor.

E. METRO shall pay the Contract price(s) for completed and accepted services. METRO may withhold from these amounts any sum the Contracting Officer determines to be necessary to protect METRO against loss because of outstanding liens or claims of former lien holders.

F. If, after termination, it is determined that the Contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of METRO.

G. The rights and remedies of METRO under this Article are in addition to any other rights and remedies provided by law or under this Contract.

8 PATENT INDEMNITY

Except as otherwise provided, the Contractor agrees to indemnify METRO and its officers, agents, and employees against liability, including costs and expenses, for infringement upon any Patent of the United States arising out of the performance of this Contract or out of the use or disposal by or for the account of METRO of supplies or equipment furnished hereunder.

9 OFFICIALS NOT TO BENEFIT

A. No member or delegate to the Congress of the United States shall be admitted to any share or part of this Contract or to any benefit arising therefrom.

B. No member, officer or employee of METRO, or of any other local public body having jurisdiction over METRO, during his tenure or for one year thereafter, shall have any interest direct or indirect, in the Contract or the proceeds thereof.

C. The Contractor covenants that he presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of the services required under this Contract. In the event any question of possible conflict should arise, the determination of METRO shall be controlling. The Contractor further covenants that in the performance of this Contract no person having any such interest shall be employed by the Contractor.

10 ETHICAL CONDUCT

A. The METRO Board of Directors has adopted a Code of Ethics governing the conduct of its officers and employees. Contractor agrees it will familiarize itself with this Code of Ethics and that it will not offer, confer or agree to confer any prohibited benefit as consideration for a METRO Board Member's or employee's decision, opinion, recommendation, vote or other exercise of discretion as a public servant or in exchange for the Board Member's or employee's having exercised his official powers or performed his official duties nor will the Contractor participate in any other violation of this Code.

B. Contractor is required to maintain those records necessary to prove beyond a reasonable doubt Contractor's compliance with METRO Code of Ethics Policy. METRO shall have the right to review for the purpose of determining compliance with Code of Ethics Policy all disbursement records and supporting documents including invoices, payment vouchers, employee expense reports and petty cash records.

C. Breach of this Article by the Contractor may result in termination of the Contract and exclusion of the Contractor from future contracts with METRO for a period of time determined by the METRO Board of Directors.

11 COVENANT AGAINST CONTINGENT FEES

The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty METRO shall have the right to annul this Contract without liability or in its discretion, to deduct from the Contract price or consideration, or otherwise recover, the full amount of such commission,

percentage, brokerage or contingent fee.

12 ASSIGNMENT

The performance of the Services under the Contract shall not be assigned by Contractor except upon written consent of METRO. The Contractor may assign monies due or to become due to him under the Contract and such assignment will be recognized by METRO, if given proper notice thereof, to the extent permitted by law. Assignment of monies will be subjected to proper offsets in favor of METRO and to deductions provided for in this Contract. Money withheld, whether assigned or not, will be subject to being used by METRO for the completion of the Work in the event that the Contractor defaults under the Contract. The validity of the assignment and the rights of the assignee against METRO shall be governed by the laws of the State of Texas. METRO reserves the right to assign all or portion of the services awarded under this Contract including options. METRO's right of assignment will remain in force over the period of the Contract or until completion of the Contract to include options whichever occurs first.

13 INDEPENDENT CONTRACTOR

It is understood and agreed that the Contractor shall be deemed to be an independent contractor in all its operations and activities hereunder; that the employees furnished by the Contractor to perform Work hereunder shall be deemed to be Contractor's employees or independent subcontractors; that Contractor employees shall be responsible for all obligations and reports covering social security, unemployment insurance, income tax, and other reports and deductions required by state or federal law.

14 SEVERABILITY

If any provision of this Contract or the application thereof to any person or circumstance, is rendered or declared illegal for any reason and shall be invalid or unenforceable, the remainder of this Contract and the application of such provision to other persons or circumstances shall not be affected thereby but shall be enforced to the greatest extent permitted by applicable law.

15 WAIVERS

A. Neither METRO's review, approval or acceptance of, nor payment for, the Work required under this Contract shall be construed to operate as a waiver of any rights under this Contract or of any cause of action arising out of the performance of the Contract, and the Contractor shall be and remain liable to METRO in accordance with applicable law and the terms of this Contract for all damages to METRO caused by the Contractor's negligent act, error or omission in the performance of any of the Work furnished under this Contract.

B. The waiver by METRO of any breach of any term, covenant, condition, or agreement herein contained shall not be deemed to be a waiver of any subsequent breach of the same, or of a breach of any other term, covenant, condition, or agreement herein contained.

16 CONTRACT ORDER OF PRECEDENCE

In the event of an inconsistency between provisions of this Contract, the inconsistency shall be resolved by giving precedence in the following order:

1. Contract Modifications, if any
2. Technical Specifications/Scope of Service
3. The Contract Articles
4. Drawing

17 FORCE MAJEURE

A. To the extent that Contractor shall be wholly or partially prevented from its performance within the terms specified of any obligation or duty placed on Contractor by reason of or through riot, acts of war, acts of terrorism, insurrection, by order of court, legislative action, act of God, or specific cause reasonably beyond the parties' control and not attributable to its neglect or nonfeasance, in such event, the time for the performance of such obligation or duty may be suspended until such disability to perform is removed. Determination of force majeure shall rest solely with METRO.

B. In the event Contractor seeks to characterize an event a "Force Majeure Event", Contractor shall have the obligation to immediately notify METRO at the time Contractor becomes aware of said Force Majeure event. Further, Contractor shall have the obligation to provide METRO with written notice upon the cessation of said Force Majeure event.

18 INTERPRETATION, JURISDICTION AND VENUE

This Contract shall be construed and interpreted solely in accordance with the laws of the State of Texas. Venue of any suit, right or cause of action arising under or in connection with this Contract shall lie exclusively in Harris County, Texas.

19 RIGHTS AND REMEDIES

The rights and remedies of METRO provided for under this Contract are in addition to any rights or remedies provided by law.

20 RESPONSIBILITY OF THE CONTRACTOR

A. The Contractor shall be responsible for the professional quality, technical accuracy and the coordination of all designs, drawings, specifications, and other services furnished by the Contractor under this Contract. The Contractor shall, without additional compensation, correct or revise any errors or deficiencies in his designs, drawings, specifications, and other services.

B. The Contractor shall provide all necessary supporting calculations and back-up documentation as requested by METRO, including all subcontracts, basic agreements and work orders.

C. If the Contractor is comprised of more than one legal entity, each such entity shall be jointly and severally liable hereunder.

21 CONTRACTOR'S KEY PERSONNEL

Contractor's key personnel listed in Section III.3, "Key Personnel", are considered to be essential to performance of any of the Services being contemplated hereunder. Prior to substituting other personnel for any of the individuals specified, the Contractor shall notify METRO reasonably in advance and shall submit justification in sufficient detail to permit evaluation of the impact on these Services. No such substitutions shall be made by the Contractor without first securing METRO approval. Proposal form entitled "Key Personnel" may be amended from time to time during the course of the Contract to either add or delete personnel, as appropriate.

22 USE OF METRO'S NAME IN CONTRACTOR ADVERTISING OR PUBLIC RELATIONS

If the Contractor should desire to use METRO's name, logo or any other material in its advertisement or public relations programs, the Contractor shall receive prior approval from METRO. Any such information relating to METRO shall be factual and in no way imply that METRO endorses the Contractor's firm, services, or products. The Contractor shall insert the substance of this Article in each subcontract and supply contract or purchase order.

23 LABOR REQUIREMENTS

A. No contractor or subcontractor holding a service contract for any dollar amount shall pay any of its employees working on the contract less than the minimum wage specified in section 6(a)(1) of the Fair Labor Standards Act (29 U.S.C. 206).

B. Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof).

C. METRO reserves the right to audit contractor certified payroll records at METRO's discretion.

24 RESTRICTIONS ON LOBBYING

Contractors who apply or propose for an award of \$100,000 or more shall file the certification required by 49CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contracts on its behalf with non-federal funds with respect to that federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient. See form in Section II, entitled "Certification of Restrictions on Lobbying".

25 DEBARMENT AND SUSPENSION

A. This Contract is a covered transaction for purposes of 49 CFR Part 29. As such, the Contractor is required to verify that none of the Contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

B. The Contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

C. Contractor must sign and submit the Debarment and Suspension Certification.

The certification in this clause is a material representation of fact relied upon by METRO. If it is later determined that the Contractor knowingly rendered an erroneous certification, in addition to remedies available to METRO, the federal government may pursue available remedies, including but not limited to suspension and/or debarment. The Contractor agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any Contract that may arise from this offer. The Contractor further agrees to include a provision requiring such compliance in its lower tier covered transactions.

26 ENTIRE AGREEMENT

This Contract and attached exhibits constitute the entire agreement between the parties and shall supersede all prior offers, negotiations, exceptions and understandings, whether oral or written, between the parties hereto. No modification of this Contract (including any change in the work) shall be binding upon METRO or the Contractor unless evidenced by a written modification issued pursuant to the "Changes Provision" or by other written order modification hereof, as appropriate.

SECTION XII - EXHIBITS

1 EXHIBIT "A", SCOPE OF SERVICES

PRE-EMPLOYMENT BACKGROUND INVESTIGATIONS AND VERIFICATIONS

SCOPE

The Scope of service requires the Contractor to provide the Metropolitan Transit Authority of Harris County, Texas (METRO) with background investigation services. Generally, a background investigation includes comprehensive employment and reference verification, criminal history search, education verification, applicant driving record, previous DOT-regulated employer drug/alcohol testing and civil/credit records.

MATERIALS

The Contractor must be licensed pursuant to Texas Occupations Code 1702 and issued by the Texas Department of Public Safety, Regulatory Services Division. The Contractor shall provide all necessary resources including materials, personnel, transportation and any other items to satisfy the requirements of the scope of service upon request by the METRO Staffing Division.

REQUIREMENTS

The Contractor shall provide the information according to the following levels:

LEVEL I: All Applicants who do not perform Safety Sensitive functions or Executive, Fiduciary, and Positions of Trust.

Comprehensive Employment and Reference Verification – The Contractor shall verify all employment history stated in the application/resume. The Contractor shall verify the following:

- Job title
- Dates of employment
- Voluntary/Involuntary separation
- Eligibility of re-hire status
- Job duties and performance
- Attendance.

Criminal History Search – The Contractor shall check whether or not the applicant has ever been convicted, since the age of 18 to current, of any felony or misdemeanor, pleaded no contest, received probation or received deferred adjudication in any county resided in, state or federal court, or any state in which the applicant may have resided or traversed. The Contractor shall obtain any criminal records held on National Criminal Index Computer (NCIC) and/or the Texas Criminal Index Computer (TCIC) (or applicable state criminal index computer. The Contractor may provide criminal records through other equivalent criminal history records sources. The Contractor shall maintain current licenses of necessary software and/or database to conduct such criminal history checks. The Contractors shall report the following:

- Date of offense or filing of criminal charges(s)
- Description of charge, offense or situation
- File, case or docket number
- Location of the charge, offense, or situation
- Disposition

Education Verification – The Contractor shall verify the possession of a High School diploma (with the school attended) or G.E.D. (Department of Education in each State). All High Schools/G.E.D. verified must be State Accredited. The Contractor shall verify all education stated in the application/resume and report the following:

- Name of Schools and Universities attended
- Dates of attendance/graduation
- Diplomas, Certifications, Degree(s) awarded, if applicable
- Accreditation of colleges or universities and validation of those accrediting organizations by the USDE ([U.S. Department of Education](#)) and/or the CHEA ([Council for Higher Education Accreditation](#))

- Completion of state accredited GED Program, if applicable

Applicant Driving Records – The Contractor shall obtain the applicant driver records from the Texas Department of Public Safety driving record or the applicable state agency responsible for driving records and report the following:

- License information/ current status
- Moving violations and accidents for the last three (3) years

LEVEL II: All Applicants who will work in a position that performs a safety sensitive function.

Comprehensive Employment and Reference Verification – The Contractor shall verify all employment history stated in the application/resume. The Contractor shall verify the following:

- Job title
- Dates of employment
- Voluntary/Involuntary separation
- Eligibility of re-hire status
- Job duties and performance
- Attendance

Criminal History Search – The Contractor shall check whether or not the applicant has ever been convicted, since the age of 18 to current, of any felony or misdemeanor, pleaded no contest, or received deferred adjudication in any county resided in, state or federal court, or any state in which the applicant may have resided or traversed. The Contractor shall obtain any criminal records held on National Criminal Index Computer (NCIC) and/or the Texas Criminal Index Computer (TCIC) (or applicable state criminal index computer. The Contractor may provide criminal records through other equivalent criminal history records sources. The Contractor shall maintain current licenses of necessary software and/or database to conduct such criminal history checks. Excluding Bus Operator Trainee, Light Rail Operator Trainee and Service Driver. The Contractors shall report the following:

- Date of offense or filing of criminal charges(s)
- Description of charge, offense or situation
- File, case or docket number
- Location of the charge, offense, or situation
- Disposition

Education Verification – The Contractor shall verify the possession of a High School diploma (with the school attended) or G.E.D. (Department of Education in each State). All High Schools/G.E.D. verified must be State Accredited. The Contractor shall verify all education stated in the application/resume and report the following:

- Name of Schools and Universities attended
- Dates of attendance/graduation
- Diplomas, Certifications, Degree(s) awarded, if applicable
- Accreditation of colleges or universities and validation of those accrediting organizations by the USDE ([U.S. Department of Education](#)) and/or the CHEA ([Council for Higher Education Accreditation](#))
- Completion of state accredited GED Program, if applicable

Applicant Driving Record – The Contractor shall obtain the applicant driver records from the Texas Department of Public Safety driving record or the applicable state agency responsible for driving records and report the following:

- License information/ current status
- Moving violations and accidents for the last three (3) years

Previous U.S. Department of Transportation (DOT)-regulated Employer (DOT Regulation 49 CFR Part 40, Section 40.25) drug and alcohol testing:

- Previous DOT-regulated employer drug and alcohol records for the last two years
- Submittal of METRO form: Request/Consent for Information from Previous Employer

- Receive results from previous employer within 7 days of submittal
- Evidence of 3 good faith efforts in lieu of results not received within 30 days

LEVEL III: Executive, Fiduciary, and Positions of Trust – Given the special relationship with METRO, these positions require additional information when conducting a background investigation. These positions are defined as: i) those that issue checks, securities, account for supplies, materials, or property; ii) authorize expenditures; iii) approve, certify, sign/countersign checks, drafts, vouchers, orders or other documents providing for the paying or delivery of money, securities, supplies or other property; and/or iv) maintain or audit accounts of money, checks, securities, time records, supplies, and property on behalf of METRO.

Comprehensive Employee and Reference Verification – The Contractor shall verify all employment history stated in the application/resume. The Contractor shall verify the following:

- Dates of employment
- Voluntary/Involuntary separation
- Eligibility of re-hire status
- Job duties and performance
- Attendance

Criminal History Search – The Contractor shall check whether or not the applicant has ever been convicted, since the age of 18, of any felony or misdemeanor, pleaded no contest, or received deferred adjudication in any county resided in, state or federal court, or any state in which the applicant may have resided or traversed. The Contractor shall obtain any criminal records held on National Criminal Index Computer (NCIC) and/or the Texas Criminal Index Computer (TCIC) (or applicable state criminal index computer). The Contractor may provide criminal records through other equivalent criminal history records sources. The Contractor shall maintain current licenses of necessary software and/or database to conduct such criminal history checks. The Contractors shall report the following:

- Date of offense or filing of criminal charges (s)
- Description of charge, offense or situation
- File, case or docket number
- Location of the charge, offense, or situation
- Disposition

Education Verification –

The Contractor shall verify the possession of a High School diploma (with the school attended) or G.E.D. (Department of Education in each State). All High Schools/G.E.D. verified must be State Accredited. The Contractor shall verify all education stated in the application/resume and report the following:

- Name of Schools and Universities attended
- Dates of attendance/graduation
- Diplomas, Certifications, Degree(s) awarded, if applicable
- Accreditation of colleges or universities and validation of those accrediting organizations by the USDE ([U.S. Department of Education](http://www.ed.gov)) and/or the CHEA ([Council for Higher Education Accreditation](http://www.chea.org))
- Completion of state accredited GED Program, if applicable

Applicant Driving Records – The Contractor shall obtain the applicant driver records from the Texas Department of Public Safety driving record or the applicable state agency responsible for driving records and report the following:

- License information/ current status
- Moving violations and accidents for the last three (3) years

Civil and Credit Records:

- State and Federal civil court records for seven years from the date of application

- Bankruptcy records for seven years from the date of application
- Current credit reports (Transunion, Experian and Equifax)

HOURS OF OPERATION

METRO'S normal hours of operation are from 8:00 a.m. to 5:00 p.m., Monday through Friday, except for holidays or unforeseen closure. The Contractor shall be available to perform a background investigation during METRO's normal working hours.

DELIVERABLES

The Contractor shall provide METRO with the results of background investigation requests within 5 business days (excluding DOT-regulated previous employer as previously stated). If the pre-employment investigation cannot be completed within the allotted time frame, the Contractor shall notify METRO's Staffing Division representative immediately and make appropriate arrangements.

CERTIFICATION OF ACCURACY

The Contractor shall provide METRO with a certification regarding the accuracy of the results and finds submitted for each potential applicant.

2 EXHIBIT "B" CONTRACTOR'S RELEASE

Pursuant to the terms of METRO Contract No. _____, as amended, and in consideration of the sum of _____ Dollars (\$ _____), which has been or is to be paid under said Contract to _____ (hereinafter called the Contractor) or its assignees, if any, the Contractor for itself and its subcontractors, upon payment of the said sum by the Metropolitan Transit Authority (hereinafter called METRO), does release and discharge METRO, their officers, agents, and employees, of and from all liabilities, obligations, claims and demand whatsoever under or arising from the said Contract, except specified claims as follows: _____
(IF NONE, SO STATE) _____.

IN WITNESS WHEREOF, this release has been executed this ____ day of _____, 200__.

By:

CERTIFICATE

I, _____, certify that I am _____ (Title) of the firm named as the Contractor in the foregoing release; that _____, who signed said release on behalf of the Contractor and its subcontractors, was the _____ (Title) of said firm; that said release was duly signed for and behalf of said firm; and is within the scope of its powers as so constituted.

(If Corporation, Affix the Corporate Seal)

3 EXHIBIT "C" CERTIFICATION OF RESTRICTIONS ON LOBBYING

See Section II, Certification of Restrictions On Lobbying.

4 EXHIBIT "D" DEBARMENT AND SUSPENSION

See Section II, Debarment and Suspension.

4 EXHIBIT "E" CODE OF ETHICS OF THE METROPOLITAN TRANSIT AUTHORITY

**CODE OF ETHICS
OF
METROPOLITAN
TRANSIT AUTHORITY**

**Adopted by the
Board of Directors
November 21, 1988
(As amended July 23, 1992)**

CODE OF ETHICS OF METROPOLITAN TRANSIT AUTHORITY

Section I. Declaration of Policy.

It is essential to the proper administration and effective operation of the Metropolitan Transit Authority ("METRO") that its Board Members and employees be, and give the appearance of being, independent and impartial; that service to METRO not be used for private benefit; and that there be confidence in METRO's integrity as a public agency. The public interest therefore requires that METRO protect against conflicts of interest by establishing ethical standards with respect to the conduct of its Board Members and employees.

It is also essential that qualified persons be encouraged to serve METRO. Accordingly, the standards established by the Code should be interpreted and understood so as not unreasonably to frustrate or impede the recruitment and retention by METRO of those persons best qualified to serve it. To that end, METRO's employees and particularly its Board Members, who are essentially uncompensated volunteers, should not be denied the opportunity available to all other citizens to acquire and maintain private economic interests except in circumstances in which a conflict of interest would reasonably result. The purpose of this Code, therefore, is to establish the standards of ethical conduct that are applicable to METRO's Board Members and employees in the discharge of their official duties, but to prescribe only such essential restrictions against conflict of interest as will not impose unreasonable restrictions on METRO's Board Members and employees.

Comment:¹ A conflict of interest exists whenever a Board Member or employee is in a position in which any official act or action taken by him is, may be, or appears to be influenced by considerations of personal gain rather than the general public interest. The fundamental principle underlying conflict of interest rules is that a public servant occupies a position of public trust and confidence and that he should therefore conscientiously avoid not only actual breaches of the public trust, but also the appearance of a conflict of interest.

No Board Member or employee can disassociate himself so completely from the private sector as to preclude the possibility of a conflict of interest arising. Accordingly, this Code considers the intention and motives in addition to the external actions of the person concerned. Although exterior appearances and actions often are an accurate manifestation of interior motivation, intent and motive become particularly relevant whenever the acts themselves fall into a gray area.

The principal responsibility for adherence to the provisions of this Code rests with the persons to whom the Code applies. Thus, the Code gives no consideration to any claim of lack of knowledge or understanding of the provisions of this Code. Whenever a question arises with respect to the applicability of the Code to a particular course of conduct, the person concerned should consult with his own counsel or make application to METRO's General Counsel for an advisory opinion.

Section II. Definitions.

As used in this Code:

- A. "Board Member" means a member of the Board of Directors of METRO.
- B. "Benefit" means anything reasonably regarded as economic gain or economic advantage, including benefit to any other person in whose welfare the beneficiary is interested, but does not include a contribution or expenditure made and reported in accordance with law.

Source:² Tex. Penal Code Ann. § 36.01 (5) (Vernon Supp. 1988).

¹The comments and examples do not have the force and effect of the sections of the Code which they follow, but should be used as an aid in interpreting the Code.

²Reference to a statutory source in the Code is not intended to imply incorporation into the Code of the referenced statute. Specifically, criminal penalties or civil remedies provided by such statutes are independent of the Code. Further, procedural processes required by such statutes, including evidentiary standards, are not incorporated into the Code. The source reference is intended only to advise the persons to whom the Code is applicable of substantially similar statutes which provide other penalties and remedies in the event of violation.

Comment: A nonmonetary award publicly presented in recognition of public service, such as a plaque or a framed certificate, is not, under ordinary circumstances, a benefit.

- C. "Business" means any entity operated for economic gain, including a corporation, partnership, proprietorship or any other entity carrying on an enterprise for profit.
- D. "Confidential information" means any information concerning METRO (i) that is not a matter of public knowledge or available to the public on request; or (ii) that METRO is legally required to keep confidential.
- E. "Contract" means any lease, claim, account or demand against or agreement with any person, whether express or implied, executed or executory, verbal or in writing.
- F. "Employee" means any person holding a supervisory or managerial position with METRO. The term "employee" does not include officers or employees of METRO's independent contractors and members of the Transport Workers Union Local 260 employed by METRO.
- G. "Employment" means any rendering of services for pay.
- H. "First degree" relation means the Board Member's or employee's spouse, parents and children, as well as the spouse of each of these relatives.
- I. "METRO" means the Metropolitan Transit Authority of Harris County, Texas.
- J. "Participate" means to take part in official acts or actions or proceedings as a Board Member or employee through approval, disapproval, decision, recommendation, investigation, the rendering of advice or the failure to act or perform a duty.
- K. "Person" means an individual, business, labor organization, representative, fiduciary, trust or association.
- L. "Public Official" means any elected official of the State of Texas; the Counties of Fort Bend, Harris, Montgomery, or Walker; any of the cities, towns or villages included within METRO; or the federal government.
- M. "Remote interest" means any interest not defined as a "substantial interest" under the terms of this Code.
- N. "Second degree by affinity" relation means the Board Members or officer's spouse, parents, children, grandparents, grandchildren and siblings, as well as the spouse of each of those relatives.
- O. "Substantial interest" means any economic interest of a Board Member or employee if:
 - 1. The Board Member or employee owns 10 percent or more of the voting stock or shares or of the fair market value of a business which holds, or seeks to acquire, a contract with METRO, or owns \$5,000 or more of the fair market value of such business;
 - 2. Funds received by the Board Member or employee from a business which holds or seeks to acquire a contract with METRO exceed 10 percent of his or her gross income for the previous year;
 - 3. The Board Member or employee has an equitable or legal ownership interest in real property located within the METRO service area with a fair market value of \$2,500 or more. A Board Member or employee also has a substantial interest in real property if he or she owns 10 percent or more of a business that holds an equitable or legal ownership interest in real property located within the METRO service area with a fair market value of \$2,500 or more. For purposes of this subsection, a Board Member or employee owns 10 percent or more of a business if he or she owns 10 percent or more of the voting stock of such business if it is a corporation or 10 percent or more of the fair market value of such business if it is a partnership or some other form of business organization;
 - 4. The Board Member or employee is entitled to a commission or fee arising out of a contractual relationship relating to real property or to a contract which would benefit by action by METRO;
 - 5. A person related in the first degree to the Board Member or employee has a substantial interest in a business, contract or real property as defined in numbers 1-4, above;
 - 6. A Board Member's or employee's partner has a substantial interest in a business, contract or real property as defined in numbers 1-4, above; or
 - 7. An organization which employs, or is about to employ a Board Member, employee, a person related in the first degree to a Board Member or employee, or the business partner of a Board Member or employee has a substantial interest in a business, contract or real property as defined in numbers 1 - 4, above.

Source: Tex Loc. Gov't Code Ann. §171.002 (Vernon 1988), as amended by § 1 Acts 1987, 70th Leg., ch. 362.

Comment: Although the language of this provision tracks the statute from which it is derived, it has been broadened where appropriate to further the purposes of this Code. Subsection O (3) has been modified to apply only to property sought to be acquired by METRO or benefitted by METRO's actions. Subsections O(4), O(6), and O(7) are not derived from the statutes, but compliance with these provisions is expected of those acting under the Code.

- P. "Third degree by consanguinity" relation means the Board Member's or officer's parents, grandparents, great grandparents, children, grandchildren, great grandchildren, siblings, uncles, aunts, nieces and nephews, but does not include the spouse of each of these.
- Q. "Transaction" means the conduct of any activity that results in or may result in an official act or action of METRO.

Section III. Standards of Conduct.

A. Prohibitions.

No Board Member or employee shall:

1. Participate in a matter involving a business, contract or real property in which the Board Member or employee has a substantial interest if it is reasonably foreseeable that an action on the matter would have a special economic effect, distinguishable from the effect on the public, on the business, contract or real property involved.

Source: Tex. Loc. Gov't. Code Ann. § 171.003 (Vernon 1988), as amended by § 1 Acts 1987, 70th Leg., ch. 323 and § 1 Acts 1987, 70th Leg., ch.362. This is the general state statute which establishes standards of conduct for local government officials.

Comment: If a situation arises whereby a majority of Board Members or employees have a substantial interest in the matter under consideration, the individual members of that group shall not be required to refrain from voting as long as the proper disclosure statement, as provided by Section III B below, has been filed. This statutory exception insures that METRO will always be able to take action on a matter, even if a majority of the decision-makers have a conflict. Tex. Loc. Gov't. Code Ann. § 171.004 (Vernon 1988), as amended by § 2 Acts 1987, 70th Leg., ch. 323 and § 1 Acts 1987, 70th Leg., ch. 362.

2. Solicit, accept or agree to accept any benefit as consideration for the Board Member's or employee's decision, opinion, recommendation, vote or other exercise of discretion as a public servant.

Source: Texas Penal Code Ann. § 36.02(a) (1) (Vernon Supp.1988). An offense under this section is a second degree felony. It is no defense to prosecution under this section that the benefit is not offered or conferred, solicited or accepted until after the exercise of discretion has occurred or the Board Member or employee has ceased to hold that position of authority. Tex. Penal Code Ann. § 36.02 (c) (Vernon Supp.1988).

3. Solicit, accept or agree to accept any benefit as consideration for a violation of a duty imposed by law on the Board Member or employee.

Source: Texas Penal Code Ann. § 36.02 (a) (3) (Vernon Supp.1988). An offense under this section is a second degree felony. It is no defense to prosecution under this section that the benefit is not offered or conferred, solicited or accepted until after the exercise of discretion has occurred or the Board Member or employee has ceased to hold that position of authority. Tex. Penal Code Ann. § 36.02 (c) (Vernon -Supp 1988).

4. Solicit, accept or agree to accept any benefit from a person the Board Member or employee knows is interested in or likely to become interested in any METRO contract or transaction.

Source: Tex Penal Code Ann § 36.08 (d) (Vernon Supp.1988). An offense under this section is a Class A misdemeanor.

Comment: The purpose of this section, and the preceding three sections, is to prohibit the solicitation or acceptance of anything of benefit, whether in the form of money, services, loans or promises, under circumstances in which it reasonably could be inferred that the benefit solicited or accepted was intended to influence the recipient, or reasonably could be expected to influence him, in the performance of his official duties. These provisions should not, however, be construed to preclude the payment of lawful compensation and reimbursement for necessary expenses incurred by a Board Member or employee in the course of performing the duties of his office. Further, this section should be considered in connection with the provisions of Section III.F., which exclude the acceptance of certain benefits from the application of this section.

Examples:

- a) W, a Board Member, requests X, president of a company that is seeking to secure a contract with METRO, to find employment for W's brother-in-law in X's company. W's request constitutes a violation of this section.
- b) Z, an officer of an engineering firm seeking to secure a contract with METRO, promises to purchase certain materials from a company owned by B, an employee, if the firm is successful in securing the contract with METRO. In reliance upon Z's promise, B attempts to secure the award of the contract for the engineering firm. B's support of Z constitutes a violation of this section.

5. Act as surety for a business that has work, business, or a contract with METRO, or act as surety on any official bond required of an officer of METRO.

Source: Tex. Loc. Gov't. Code Ann. § 171.003 (Vernon 1988), as amended by § 1 Acts 1987, 70th Leg., ch. 323 and § 1 Acts 1987, 70th Leg., ch. 362.

6. Disclose confidential information; use confidential information for the purpose of securing a benefit for the Board Member or employee; accept employment or engage in professional activity which would require, or which the Board Member or employee should reasonably expect would require, the Board Member or employee to disclose confidential information.

Source: Tex. Rev. Civ. Stat. Ann. art. 6252-9b, § (b) (Vernon Supp.1988).

Comment: This provision is based on the principle that a Board Member or employee should not use "inside" information to which he has access solely because of his association with METRO, and which is not available to the public, for his or another person's financial gain. The unauthorized divulgence or premature release of confidential information to a relative, friend or business associate tends to undermine public confidence in METRO. Though the statute cited herein technically applies only to state employees, its policies are relevant to METRO as well.

Example: Y, an employee, advises his brother to invest in the securities of a company which is about to be awarded a highly profitable contract with METRO. Y's advice constitutes a violation of this section.

7. Use his or her official position or employment, or METRO's facilities, equipment or supplies, to obtain or attempt to obtain private gain or advantage.
8. Make personal investments, engage in any transaction or professional activity, or incur any obligation of any nature which would create, or which the Board Member or employee should reasonably foresee would create, a substantial interest in a business, contract or real property that would result in significant and continuing conflict of interest.

Source: Tex. Rev. Civ. Stat. Ann., art 6252-9b, § (d) (Vernon Supp.1988).

Comment: The purpose of this section is to prevent Board Members and employees from making investments or engaging in transactions or professional activities which would create conflicts with their official duties. Neither this subsection nor any other section of the Code proscribes the retention of an otherwise prohibited interest acquired prior to the interest-holder's appointment or employment as a Board Member or employee, provided that the existence of such interest is properly disclosed. This section does not, however, permit the renewal of such an interest if renewal would foreseeably create a substantial interest in an entity with significant and continuing conflicts for the Board Member or employee. The statute cited herein technically applies to state employees only, but its policies have been adopted insofar as they advance the goals of METRO in creating this Code.

Example: X, a Board Member, acquires stock in a company from which METRO has recently made a cash purchase of several expensive pieces of equipment. Because the purchase is a closed transaction and unlikely to be affected by the official acts or actions of either the Board Member or METRO, X's acquisition of the stock does not constitute a violation of this subsection.

9. Fail to disclose his or her discussion of future employment with any business which has, or the Board Member or employee should reasonably foresee is likely to have, any interest in any transaction upon which the Board member or employee may or must act or make a recommendation subsequent to such discussion.

10. Represent, for compensation, any person in any action or proceeding involving the interests of METRO.
11. Engage in any activity or transaction that is prohibited by any law, now existing or hereafter enacted, which is applicable to the Board Member or employee by virtue of his or her association with METRO.

Comment: This subsection is intended to make clear that it is the individual responsibility of METRO Board Members and employees to acquaint themselves and comply with all laws made applicable to them because of their official positions.

12. Participate in a matter when such participation could reasonably create the impression that any person or group can improperly influence the Board Member or employee or unduly enjoy his or her favor in the performance of official acts or actions, or that he or she is affected unduly by the kinship, rank, position or association with any person or group.

Comment: This subsection is intended to underscore the importance of maintaining the public appearance of the impartiality and independence of METRO Board Members and employees and is based on the proposition that persons covered by this Code are charged with the responsibility of advancing the general public interest. Accordingly, any actions taken by Board Members or employees, whether in an official or private capacity, which tend to engender popular suspicion of or disrespect for METRO are prohibited by this subsection. Where any question arises as to the propriety under this section of a particular course of conduct or contemplated action, resort may be had to advisory opinions of the General Counsel.

Example: Y, a Board Member and practicing attorney, has an ongoing professional relationship with a local civic organization which requests that METRO provide free transportation to a community-wide event sponsored by the organization. Y does not represent the organization in connection with the request. Y should abstain from participating in the matter to avoid creating an impression that his contact with the group improperly influenced the Board's decision.

B. Disclosure Requirements.

1. If a Board Member or employee has a substantial interest in a business, contract or real property on which a special economic effect, distinguishable from its effect on the public, would be conferred by a vote or decision by such Board Member or such employee, the Board Member or employee may not participate in the consideration of the matter subject to the vote or decision. In addition, the Board Member or employee shall, before a vote or decision occurs, file with the Assistant Secretary of the METRO Board an affidavit stating the nature and extent of his or her interest.

Source: Tex. Loc. Gov't. Code Ann. § 171.004 (Vernon 1988), as amended by § 2 Acts 1987, 70th Leg., ch. 323.

Comment: A disclosure requirement is a fundamental step in the process of monitoring potential conflicts of interest that may arise and is a means of maintaining public confidence in the good faith and impartiality of official acts or actions taken by METRO. It is to be noted, however, that the burden of making such disclosures rests on the individuals concerned, who accordingly should be held to a high standard of care and good faith to insure that no conflicts of interest they may have go undisclosed. Any Board Member or employee may request METRO's General Counsel to render an advisory opinion as to whether a particular personal or financial relationship warrants public disclosure under this section.

Examples:

- a) V, an employee, is a creditor of an insolvent company that is being considered for construction work by METRO. V should disclose his interest.
- b) W, a Board Member, owns an insurance company that writes policies for contractors likely to do business with METRO. W should disclose his interest.
- c) Y, a Board Member, is also an officer of a company that frequently is engaged as surety on performance bonds executed by a construction firm being considered for work by METRO. Y should disclose his interest.

2. If a Board Member or employee has a discussion relating in any way to future employment of the Board Member or employee with any business which has, or the Board Member or employee should reasonably foresee is likely to have, any interest in any transaction upon which the Board Member or employee may or must act, the Board Member or employee shall, immediately after the commencement of such a discussion, disclose the name of the prospective employer and the date of the commencement of the discussion to the Assistant Secretary of the METRO Board, who shall keep an official written record thereof.
3. Board Members shall within 30 days of their appointment disclose in writing to METRO General Counsel the location by address and approximate acreage of real property in which they own a substantial interest, as defined in Section II. 0.3. Board Members shall notify METRO General Counsel of the acquisition of a substantial interest in additional property and the sale of any such property within 30 days of such transaction. METRO General Counsel shall prepare and maintain a map denoting the location of any such property for each Board Member.

C. Nepotism.

No Board Member or officer of METRO with the authority to appoint, elect or hire METRO personnel, whether such authority is granted by statute or delegated by the Board or by the President & CEO, shall exercise that authority in favor of persons who are related to any METRO Board Member or to the officer exercising such authority within the second degree by affinity or within the third degree by consanguinity. This provision shall not prevent the retention or advancement of any person who has been continuously employed in his or her position for at least 30 days prior to the appointment of the Board Member or officer related to such person; provided, however, that the Board Member or officer related to that person shall not participate in any deliberation, voting or appointment process relating to that person.

Source: Tex. Rev. Civ. Stat Ann., arts. 5996a-5996g (Vernon Supp. 1988.) An offense under this provision is a misdemeanor involving official misconduct and may result in a significant fine.

Example: X, the Personnel Director for METRO, hires a Board Member's niece to work in the Real Estate department. X has violated this provision.

D. Outside Employment.

A full-time employee shall not engage in any outside employment without first securing approval, in writing, from the employee's Director. Should the employee's Director deny approval, the employee may appeal that decision to the President & CEO. Directors and Vice Presidents shall obtain written approval of the President & CEO or designee before engaging in any outside employment. The President & CEO shall not engage in any outside employment without first securing approval, in writing, of the METRO Board.

E. Contracts with Former Employees.

METRO may not enter into any contract (other than a contract subject to competitive bids) with any business employing or represented by a person who has been within the preceding 12-month period an employee of METRO if the contract relates to a matter for which the employee had responsibility while representing METRO.

Comment: This section is intended primarily to prevent an improper use of knowledge and influence acquired from employment in subsequent post-employment dealings with METRO.

Example: X, an employee, resigns from his position and immediately takes up employment in a company which eleven months later attempts to negotiate a consulting contract with METRO. METRO will discontinue negotiations with the company.

F. Contracts With Public Officials.

METRO may not enter into any contract (other than a contract subject to competitive bids) with a Public Official or with a business in which a Public Official has a substantial interest.

G. Exceptions.

Section IIIA4 does not apply to the following benefits, which may be accepted by a Board Member or employee:

1. A fee prescribed by law to be received by the Board Member or employee or any other benefit to which the Board Member or employee is lawfully entitled or for which he or she gives legitimate consideration in a capacity other than as a Board Member or employee;
2. A gift or other benefit conferred on account of kinship or on account of a personal, professional or business relationship independent of the Board Member's or employee's relationship with METRO;
3. An honorarium in consideration for legitimate services rendered above and beyond official duties and responsibilities if:
 - a. Not more than one honorarium is received from the same person in a calendar year;
 - b. Not more than one honorarium is received for the same service;
 - c. The Board Member or employee files an affidavit with the Assistant Secretary of the Board stating the purpose and amount of the honorarium and the date on which it was received;
4. A benefit consisting of: (i) the value of an occasional meal accepted as a guest while in the company of the offeror; (ii) the value of occasional entertainment, in the form of tickets to sporting, cultural and similar events, which is accepted as a guest while in the company of the offeror, or (iii) in addition to the benefits specified in items (i) and (ii), any other benefit consisting of the value of food, lodging, transportation or entertainment accepted as a guest while in the company of the offeror, provided that the acceptance of such benefit is approved in advance in writing. For an employee, such approval

shall be given by the employee's Director, as to Directors and Vice Presidents, approval shall be given by the President & CEO; as to the President & CEO, approval shall be given by the Chairman of the METRO Board. A Board Member who proposes to accept a benefit under subsection (iii) shall file a written statement with the Assistant Secretary of the METRO Board prior to acceptance of such benefit disclosing the nature of the benefit and the identity of the offeror.

Source: Texas Penal Code Ann. § 36.10 (Vernon Supp. 1988). Though Subsection 3(c) above is not included in the language of the statute, it has been adopted by METRO insofar as it furthers the purposes of this Code.

Example: X, a Vice President of METRO, is invited on a hunting trip by Y, the representative of an engineering firm which X knows is interested or is likely to become interested in METRO matters. Y or Y's firm owns the lease to the hunting site. X may not accept the invitation under such circumstances because the opportunity to hunt free of charge on land that is being leased to another at some charge is not an exception to the general prohibition under this provision.

H. Ethics Advisory Opinions.

Board Members or employees desiring further interpretation of the Code as it applies to particular factual situations may seek advisory opinions from the General Counsel for METRO. The General Counsel's opinion shall be advisory only, but a Board Member or employee who acts in reliance on such opinion shall be deemed to be in compliance with the Code. On request of the Board Member or employee, advisory opinions sought pursuant to this provision will not be released to the public. However, the General Counsel shall under no circumstances owe a professional duty of loyalty or confidentiality to the Individual Board Member or employee seeking such an opinion. The Issuance of advisory opinions does not establish an attorney-client relationship between the General Counsel and the METRO Board Member or employee with regard to the subject matter of the request.

Section IV. Penalties for Violation of Standards of Conduct.

A. Board Members.

A Board Member who is found by the Board to have violated this Code is subject to official reprimand by vote of a majority of a quorum of the Board. In the event that the Board determines that the violation constitutes inefficiency, neglect of duty or malfeasance in office, the Board Member may be removed from office by an affirmative vote of six Members of the Board, provided that the procedural requirements of Section 4(e)(1) of Art. 1118x, Tex. Rev. Civ. Stat. Ann., have been met.

B. Employees.

The President & CEO or other authorized METRO official may impose such sanctions and penalties against an employee who is found to have violated this Code as may be appropriate, including official reprimand, suspension or dismissal from employment.

C. Contractors.

Any business contracting with METRO which offers, confers or agrees to confer any benefit as consideration for a Board Member's or employee's decision, opinion, recommendation, vote or other exercise of discretion as a public servant or in exchange for the Board Member's or employee's having exercised his official powers or performed his official duties or which participates in the violation of any provision of this Code may have its existing METRO contracts terminated and may be excluded from future business with METRO for a period of time determined by the METRO Board. These determinations shall be made by the Board of Directors of METRO or its designee.

Section V. Construction, Application and Severability.

A. This Code shall be construed liberally to effectuate its purposes and policies and to supplement such existing laws as may relate to the conduct of Board Members and employees.

B. The propriety of any official act or action taken by or transaction involving any Board Member or employee prior to the effective date of this Code shall not be affected by the enactment of this Code.