

The Procurement Office of the Public Building Authority of the County of Knox and the City of Knoxville, Tennessee, (hereinafter "PBA") will receive sealed bids for the provision of **HVAC Equipment, Parts, and Supplies** as specified herein. Bids must be received by **11:00 a.m. Eastern Time on January 24, 2024**. Late bids will neither be considered nor returned.

Please Deliver Bids to:

**Bid Number 2024.011
Public Building Authority – Procurement Office
610 Richards Street
Knoxville, Tennessee 37921**

The Bid Envelope must show the Supplier's Name, Bid Number, Bid Name, & Bid Opening Date.

SECTION I GENERAL TERMS AND CONDITIONS

1.1 ADDITIONAL INFORMATION: PBA requires requests for additional information be routed to Karen D. Smitherman, NIGP-CPP, CPPB, PMP, Manager of Procurement and Internal Controls. Questions may be emailed to ksmitherman@ktnpba.org. Please include "HVAC Equipment, Parts, and Supplies" in the subject line of the email. Information about the PBA Procurement Office may be obtained on the internet at <https://www.ktnpba.org/doing-business-with-pba>.

PBA may use various words (e.g.: suppliers, vendors, bidders, proposers, firms, and contractors) to describe parties interested in this solicitation.

1.2 ACCEPTANCE: Suppliers shall hold their price firm and subject to acceptance by PBA for a period of ninety (90) days from the date of the bid opening, unless otherwise indicated in their bid.

1.3 ALTERNATIVE BIDS: PBA will not accept alternate bids (those not equal to specifications) unless authorized by the Invitation for Bids (IFB).

1.4 AWARD: Award will be made to the most responsive, responsible supplier(s) meeting specifications, who presents the product(s) and/or or service(s) that is in the best interest of PBA. A responsible supplier is one with the capability in all respects (e.g., experience, personnel, equipment, and finances) to fully perform the contract requirements and the integrity and reliability that will assure good faith performance.

PBA intends to award this solicitation to all responsive and responsible bidders; however, PBA reserves the right to award this IFB on an item-by-item basis, a schedule basis, an all or none basis, or by multiple award, whichever is in the best interest of PBA. PBA reserves the right to not award this solicitation. Award will be made in accordance with the evaluation criteria specified herein.

1.5 BID DELIVERY: PBA requires suppliers, when hand delivering bids, to time and date stamp the envelope before submitting their response to the Procurement Office representative. The time clock in the Procurement Office will become the official record of time. Electronic submissions are recorded electronically. PBA will not be responsible for technical difficulties experienced by suppliers trying to register or submit their response electronically less than twenty-four (24) hours prior to the bid opening time. See Section 1.16 for information regarding required supplier registration.

Solicitations must be in a sealed envelope/box prior to entering the Procurement Division office. Procurement Office personnel are not allowed to see the submittal nor assist in placing documents in an envelope/box. Additionally, the Procurement Office is not responsible for providing materials (e.g.: envelopes, boxes, tape) for submittals.

1.6 BID FORMAT: This solicitation is in the IFB format. At the specified date and time, each supplier's name and pricing will be publicly read aloud. Evaluation of the bids will proceed as expeditiously as possible and successful, as well as unsuccessful, notification will be given.

1.7 CLOSURES: During periods of closure due to unforeseen circumstances in Knox County or closures at the direction of PBA's Administrator/CEO, the Procurement Office will enact the following procedures regarding solicitations and closures:

- If the Administrator/CEO closes the administrative offices prior to the time set for a solicitation opening/closing on any business day, all solicitations due that same day will be moved to the next operational business day.
- Other unforeseen circumstances will be at the sole discretion of the PBA Director of Finance.
- PBA will not be liable for any commercial carrier's decision regarding deliveries during any unforeseen circumstances.

1.8 CONFLICTS OF INTEREST: PBA has adopted a resolution regarding conflicts of interest for employees and contractors. When submitting a response to the IFB, each supplier must certify that the submission is not the result of, or affected by, any unlawful act of collusion with any other person or company engaged in the same line of business or commerce or any other fraudulent act punishable under the laws the United States of America or the State of Tennessee. Please see Attachments A, B, and C.

1.9 CONTRACTOR DEFAULT: PBA reserves the right, in case of contractor default, to procure the articles or services from other sources and hold the defaulting contractor responsible for any excess costs occasioned thereby. Should contractor default be due to a failure to perform or because of a request for a price increase, PBA reserves the right to remove the contractor from PBA's bidders' list for twenty-four (24) months.

1.10 COOPERATIVE PURCHASING: Suppliers must indicate whether it is permissible for other governments in Tennessee to purchase these items or services at the same price. Freight charges can be adjusted to reflect differences in delivery costs.

1.11 COPIES: PBA **requires** that bids being submitted by hand be submitted with one (1) marked original and one (1) exact copy. PBA requests that bids be concise with no duplication of answers. If submitting electronically using PBA's online portal, no additional copies are needed.

1.12 DECLARATIVE STATEMENTS: Any statement or words (e.g.: must, will, shall) are declarative statements and the supplier must comply with the condition. Failure to comply with any such condition may result in their bid being deemed non-responsive and disqualified.

1.13 ELECTRONIC TRANSMISSION OF BIDS: PBA's Procurement Office **will** accept electronically transmitted bids through PBA's On-Line Procurement System. PBA prefers that all documents for an electronic submittal be merged into a single .pdf document prior to uploading them in Vendor Registry. Facsimile and email submission are strictly prohibited.

1.14 ENTRANCE TO PBA SITES: Only PBA badged employees of the successful contractor(s) are allowed on the premises of PBA buildings and projects. Contractor employees/subcontractors are NOT to be accompanied in their work area by acquaintances, family members, assistants, or any unauthorized persons. Only the contractor's personnel, having passed the security background check and issued a PBA badge, are authorized to be onsite. All authorized personnel are required to wear and display their PBA issued badge at all times while in a PBA facility.

1.15 EVALUATION OF TIE SOLICITATIONS: A tie exists when two or more suppliers offer goods and/or services that meet all specifications, terms, and conditions at identical prices, including cash discount offered and any other value-based factors. A tie for quotes or bids will be broken by the following methods, in descending order of preference:

- 1.15.1** Life Cycle Costing techniques would be utilized to determine the lifetime cost of the item from each supplier. If either item was more expensive over its lifetime, it would not be considered.
- 1.15.2** Delivery factors such as lead times, schedules and cost could be considered.
- 1.15.3** Locality would be a factor of the decision. If either supplier was local or if one supplier was in the state of Tennessee and the other one was not, the award can be made to the supplier having local ties.
- 1.15.4** If no other method of breaking the tie is useful, a publicly witnessed drawing of lots or coin toss can be utilized.
- 1.15.5** The responses could be rejected, and the item re-solicited.

In the event that a proposal evaluation process results in two or more proposals receiving evaluation scores that tie for the rank of highest score, PBA will request best and final cost proposals from only those suppliers with scores that tie. PBA will then evaluate the best/final proposals from the tied suppliers to make a selection.

1.16 HOW TO DO BUSINESS: PBA utilizes a web-based procurement software system, Vendor Registry. The system provides our clients with a more enhanced and end-user friendly means of accessing our services. The system allows for on-line supplier registration and maintenance as well as on-line retrieval and submittal of quotes, bids, and proposals for our supplier-clients.

Prior to the opening of this IFB, *ALL PARTICIPATING SUPPLIERS* must be registered with the PBA Procurement Office. Registration may be completed online at <https://www.ktnpba.org>, Select the Register as a Vendor link to complete the registration process. There is a link for a “How To” guide on the website for your reference. If you have any questions, please contact the Procurement Office Representative listed in Section 1.1 of this document.

1.17 INCURRED COSTS: PBA will not be responsible for any costs incurred by the supplier in the preparation of their bid.

1.18 MINORITY-OWNED, WOMEN-OWNED & DISADVANTAGED BUSINESSES: PBA encourages the meaningful participation of minority-owned businesses. It is the intent of PBA to maintain a minimum procurement goal of 10% participation from minority-owned, women-owned, small businesses, and/or disadvantaged businesses.

1.19 MULTIPLE BIDS: PBA will consider multiple bids that meet specifications.

1.20 NO CONTACT POLICY: After the date and time that the supplier receives this solicitation, any contact initiated by any supplier with any PBA representative concerning this IFB, other than the Procurement Office representative listed herein, is strictly prohibited. Any such unauthorized contact may cause the disqualification of the supplier from this procurement transaction.

1.21 PAYMENT METHOD: PBA utilizes two (2) methods of placing orders for products. The first is the use of Purchase Orders (P.O.). P.O.s will be issued from the PBA Procurement Office via email. The P.O. will detail the quantity, specific item(s) and the contracted price for each item. Orders placed using a P.O. will be paid by Electronic Funds Transfer (EFT). Successful contractor(s) will be asked to submit a new/updated EFT Authorization Form to confirm that PBA has correct banking information on file prior to the contract being fully executed.

The second method is the use of the PBA purchase card (P-Card), MasterCard. Orders placed on the credit card will list the same information as the P.O. Contractors will be given the card information and approval to process the transaction for the requesting department. Suppliers must indicate in their bid if they will accept the PBA P-Card as a form of payment. Contractors are prohibited to charge PBA any type of merchant fee from their financial institution to accept this type of payment.

1.22 POSSESSION OF WEAPONS: All contractors and their employees and their agents are prohibited from possessing any weapons on PBA property without prior written consent from PBA. In the case of a contractor whose contract requires possession of firearms or other weapons to successfully complete their contract, contractor must provide personnel who are bonded to bear said weaponry.

1.23 PROCESSING TIME FOR PAYMENT: Contractors are advised that a minimum of thirty (30) days is required to process invoices for payment when the invoicing instructions herein are followed.

1.24 PROOF OF FINANCIAL AND BUSINESS CAPABILITY: Contractors must, upon request, furnish satisfactory evidence of their ability to furnish products and/or services in accordance with the terms and conditions of these specifications. PBA will make the final determination as to the contractor's ability.

1.25 RECYCLING: PBA, in its continuing efforts to lessen the amount of landfill waste and to further recycling efforts, requests that bids be submitted electronically using PBA's online portal. Bids being submitted on paper must:

1.25.1 Be submitted on recycled paper;

1.25.2 Not include pages of unnecessary advertising.

1.26 RESTRICTIVE OR AMBIGUOUS SPECIFICATIONS: It is the responsibility of the prospective supplier to review the entire IFB packet and to notify the Procurement Office if the specifications are formulated in a manner that would unnecessarily restrict competition.

Any such protest or question regarding the specifications or solicitation procedures must be received by the Procurement Office no later than **4:30 p.m. Eastern Time on January 10, 2024**. These requirements also apply to specifications that are ambiguous.

1.27 SIGNING OF BIDS: In order to be considered, all submittals must be signed. **The original must be signed by a representative of the company authorized to contractually bind the company.** By signing the bid document, the supplier acknowledges and accepts the terms and conditions stated in the document and will legally bind the supplier to PBA's request for goods and/or services. The submission of your electronic response will be the acknowledgement of signature.

- 1.28 SMOKING/TOBACCO POLICY:** Smoking, smokeless tobacco products, and electronic-cigarette use is prohibited in PBA managed buildings, including at any of the entrances or exits or within fifty feet of any doorway, as is currently designated and determined by federal regulations, which may change from time-to-time. Smoking is only permitted at the designated smoking areas beyond the 50-foot restriction. This policy applies to all contractors' employees and subcontractors. Smoking means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, pipe, or any other lighted or heated tobacco or plant product intended for inhalation, in any manner or in any form. This policy also applies to electronic cigarette devices in all forms.
- 1.29 TAXES:** PBA direct purchases are not subject to taxation. Tax exemption certificates will be provided upon request.
- 1.30 TERM CONTRACTS:** If this solicitation results in a term contract, PBA must receive all general price decreases that other similar customers receive.
- 1.31 TITLE VI:** It is the policy of PBA that all its services and activities be administered in conformance with the requirements of Title VI. Contractors must comply with the President's Executive Order Nos. 11246 and 11375 which prohibit discrimination in employment regarding race, color, religion, sex, or national origin. Contractors must not maintain or provide for their employees any facilities that are segregated on the basis of race, color, religion, or national origin. Contractors must also comply with Title VI of the Civil Rights Act of 1964, Copeland Anti-kickback Act, the Contract Work Hours and Safety Standard Act, Section 402 of the Vietnam Veterans Adjustment Act of 1974 and Section 503 of the Rehabilitation Act of 1973, all of which are incorporated by reference.
- All contractors must comply with Title VI of the Civil Rights Act of 1964 as codified in 42 U.S.C. 2000d. The successful contractor(s) must follow Title VI guidelines in all areas including, but not limited to, hiring practices, open facilities, insurance, and wages. PBA reserves the right to review all compliance records to be completed by a contract compliance officer designated by PBA.
- 1.32 USE OF BID FORMS:** Suppliers must complete the bid forms contained in the solicitation package. Failure to complete the bid forms may result in rejection of their bid.
- 1.33 WAIVING OF INFORMALITIES:** PBA reserves the right to waive minor informalities or technicalities when it is in the best interest of PBA.

SECTION II OBLIGATIONS, RIGHTS AND REMEDIES

These terms and conditions shall be part of the contract. PBA reserves the right to negotiate other terms and conditions it deems appropriate and necessary under the circumstances to protect the public's trust.

- 2.1 ALTERATIONS OR AMENDMENTS:** No alterations, amendments, changes, modifications or additions to this contract shall be binding on PBA without the prior written approval of PBA.
- 2.2 APPROPRIATION:** In the event no funds are appropriated by PBA for the goods and/or services in any fiscal year or insufficient funds exist to purchase the goods and/or services, then the contract shall expire upon the expenditure of previously appropriated funds or the end of the current fiscal year, whichever occurs first, with no further obligations owed to or by either party.
- 2.3 ASSIGNMENT:** Contractor shall not assign or sub-contract this agreement, its obligations or rights hereunder to any party, company, partnership, incorporation or person without the prior written specific consent of PBA.
- 2.4 AWARD PROTEST PROCEDURES:** Occasionally there may be complaints from suppliers asserting the award process for a solicitation has been unfair in some manner. Any supplier who claims to be aggrieved in connection with a specific solicitation may pursue the following process for resolution. Suppliers who believe there has been a problem with the process or decisions should contact the buyer listed in Section 1.1 of the solicitation in question. Typically, the buyer will be able to explain PBA's rationale for the decision and the supplier will be satisfied. However, if the supplier is still not satisfied, the following steps may be taken. The supplier may notify the Director of Finance, in writing, within seven calendar days after the notice of the award or intent to award the contract is issued, whichever is earlier. **PBA will not consider complaints filed electronically.** Complaints received more than seven calendar days after the notification of the award decision has been made will not be considered for review. The envelope in which the protest is mailed should be clearly marked "Protest of Award Decision." The written protest should include:

- 2.4.1 The name, address, and phone number of the protestor and the name of the supplier represented;
- 2.4.2 The solicitation name, solicitation number, solicitation due date, and any other pertinent information;
- 2.4.3 A statement of reason for the protest and the resolution requested;
- 2.4.4 Any supporting documents, exhibits, or evidence to substantiate the protest; and
- 2.4.5 The original signature of the protestor.

The Director of Finance will review the protest and announce a decision in writing. Recognizing that delaying the procurement process any longer than necessary is detrimental to the interests of PBA, the Director of Finance will announce their decision as soon as possible. The decision will be made, and the protestor will be notified within five business days of the receipt of the protest.

If the protestor still is not satisfied, there is a final appeal process. The concerned protestor may file an appeal with the Administrator/CEO of PBA. This appeal must be filed within three business days from the issuance of the Director of Finance's decision. The Administrator/CEO will again review the information and the previous decisions. A decision will be made and issued within five business days.

In those cases where delaying the procurement process would endanger the health of the public served, cause additional and/or extensive damage to PBA or would adversely affect PBA programs, PBA will not stop the process. All documentation regarding the protest shall become part of the solicitation file.

- 2.5 **BACKGROUND CHECKS:** Any and all employees of the successful contractor's staff and their subcontractors' staff providing on-site services to PBA or assigned a project by PBA may be required to undergo a background check. The successful contractor(s) should allow up to five business days for an employee to be approved or denied for unescorted access within any PBA managed facility. Under no circumstances shall a contractor's or subcontractor's employee begin work on a PBA property or project prior to receiving authorization by PBA and obtaining a badge.

All costs associated with background checks will be the responsibility of the contractor. The costs for the background check and a badge, if required, will be charged at the current established rates listed in the PBA Background Check and Badge Procedure. Additional charges may apply. Firms may review and retrieve copies of the PBA Background Check and Badge Policy and the PBA Background Check and Badge Procedure documents on our website at www.ktnpba.org. Select the link for Doing Business with PBA; the documents are available under the Resources section.

PBA reserves the right to enforce different security requirements for different locations as required by law or by our client. If applicable, for projects occurring at school facilities or other locations where children may be present, the contractor must comply with the criminal background check requirements of T.C.A. § 49-5-413 and the contractor must submit all required information to PBA prior to commencing work on a project.

- 2.6 **BOOKS AND RECORDS:** Contractor shall maintain all books, documents, accounting records and/or other evidence pertaining to the goods and/or services provided under this Contract and make such materials available at its offices at all reasonable times during the contract period and for three (3) years from the date of the final payment under this agreement for inspection by PBA or by any other governmental entity or agency participating in the funding of this agreement, or any authorized agents thereof; copies of said records to be furnished if requested. Such records shall include those books, documents and accounting records that represent the contractor's costs of manufacturing, acquiring or delivering the products and/or services governed by this agreement.

- 2.7 **CHILD LABOR:** Contractor agrees that no products or services will be provided or performed under this contract which have been manufactured or assembled by child labor.

- 2.8 **COMPLIANCE WITH ALL LAWS:** Contractor is assumed to be familiar with and agrees to observe and comply with all federal, state, and local laws, statutes, ordinances, and regulations in any manner affecting the provision of goods and/or services, and all instructions and prohibitive orders issued regarding this work and shall obtain all necessary permits. All contractors must be properly licensed by the State of Tennessee and all other authorities having jurisdiction. A copy of each current license or permit must be submitted with the response. Failure to submit copies of these documents may lead to rejection of the bid.

- 2.9 CONFLICTING PROVISIONS:** In the event of inconsistent or conflicting provisions of the contract and any documents related thereto (including but not limited to the IFB, the bid, the award, the special terms and conditions, the general terms and conditions, any subsequent project-specific contracts, the specifications, and the drawings) the provision that grants PBA the greater rights and/or imposes the greater obligations on the contractor shall prevail.
- 2.10 DEFAULT:** If contractor fails to perform or comply with any provision of this contract or the terms or conditions of any documents referenced and made a part hereof, PBA may terminate this contract, in whole or in part, and may consider such failure or noncompliance a breach of contract. PBA expressly retains all its rights and remedies provided by law in case of such breach, and no action by PBA shall constitute a waiver of any such rights or remedies. In the event of termination for default, PBA reserves the right to purchase its requirements elsewhere, with or without competitive solicitation.
- 2.11 GOVERNING LAW:** The resulting contract from this solicitation shall be governed by the laws of the State of Tennessee, and all obligations of the parties are performable in Knox County, Tennessee. The Chancery Court and/or the Circuit Court of Knox County, Tennessee, shall have exclusive and concurrent jurisdiction of any disputes which arise hereunder.
- 2.12 INCORPORATION:** All specifications, drawings, technical information, IFB, bid, award, and similar items referred to or attached or which are the basis for this contract are deemed incorporated by reference as if set out fully herein.
- 2.13 INDEMNIFICATION/HOLD HARMLESS:** Contractor shall indemnify, defend, save and hold harmless PBA, its officers, agents and employees from all suits, claims, actions or damages of any nature brought because of, arising out of, or due to breach of the agreement by contractor, its subcontractors, suppliers, agents, or employees or due to any negligent act or occurrence or any omission or commission of contractor, its subcontractors, suppliers, agents or employees.
- 2.14 INDEPENDENT CONTRACTOR:** Contractor shall acknowledge that it and its employees serve as independent contractors and that PBA shall not be responsible for any payment, insurance, or incurred liability.
- 2.15 INSPECTION AND ACCEPTANCE:** Warranty periods shall not commence until PBA inspects and formally accepts the goods and/or services. The terms, conditions and timing of acceptance shall be determined by PBA. PBA reserves the right to reject any or all items or services not in conformance with applicable specifications, and contractor assumes the costs associated with such nonconformance. Acceptance of goods or services does not constitute a waiver of latent or hidden defects or defects not readily detectable by a reasonable person under the circumstances.
- 2.16 IRAN DIVESTMENT ACT:** By submission of this bid, each supplier and each person signing on behalf of any supplier certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each supplier is not on the list created pursuant to Tennessee Code Annotated (T.C.A.) § 12-12-106.
- 2.17 LIMITATIONS OF LIABILITY:** In no event shall PBA be liable for any indirect, incidental, consequential, special or exemplary damages, or lost profits, even if PBA has been advised of the possibility of such damages.
- 2.18 NON-BOYCOTT OF ISRAEL ACT:** By submission of this bid, each supplier and each person signing on behalf of any supplier certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each supplier is not currently engaged in, and will not for the duration of the contract engage in, a boycott of Israel as defined by Tennessee Code Annotated § 12-4-119. Each supplier and each person signing on behalf of any supplier further certifies that each supplier is not on the list created pursuant to T.C.A. § 12-4-119. This provision shall not apply to contracts with a total value of less than two hundred fifty thousand dollars (\$250,000) or to contractors with less than ten (10) employees.
- 2.19 NON-DISCRIMINATION AND NON-CONFLICT STATEMENT:** Contractor agrees that no person on the grounds of handicap, age, race, color, religion, sex or national origin shall be excluded from participation in, or be denied benefits of, or be otherwise subjected to discrimination in the performance of this agreement or in the employment practices of contractor. Contractor shall upon request show proof of such non-discrimination and shall post in conspicuous places available to all employees and applicants notices of non-discrimination. Contractor covenants that it complies with the Fair Wage and Hour Laws, the National Labor Relations Act, and other federal and state employment laws as applicable. Contractor covenants that it does not engage in any illegal employment practices.

Contractor covenants that it has no public or private interest and shall not acquire directly or indirectly any interest, which would conflict in any manner with the provision of its goods or performance of its services. Contractor warrants that no part of the total contract amount provided herein shall be paid directly or indirectly to any officer or employee of PBA as wages, compensation, or gifts in exchange for acting as officer, agent, employee, subcontractor, or consultant to contractor in connection with any goods provided or work contemplated or performed relative to the agreement.

- 2.20 PUBLIC RECORDS ACT:** PBA is subject to the Tennessee Public Records Act T.C.A. § 10-7-503 et seq. Suppliers are cautioned that all documents submitted on behalf of this IFB will be open to the public for viewing and inspection, and PBA will comply with all legitimate requests.
- 2.21 REMEDIES:** PBA shall have all rights and remedies afforded under the U.C.C. and Tennessee law in Contract and in tort, including but not limited to rejection of goods, rescission, right of set-off, refund, incidental, consequential and compensatory damages, and reasonable attorney's fees.
- 2.22 RIGHT TO INSPECT:** PBA reserves the right to make periodic inspections of the manner and means the service is performed or the goods are supplied.
- 2.23 SEVERABILITY:** If any provision of this contract is declared illegal, void or unenforceable, the remaining provisions shall not be affected but shall remain in force and in effect.
- 2.24 TAX COMPLIANCE:** Contractor hereby acknowledges, by submission of its bid and signature that it is current in its respective federal, state, county, and city taxes of whatever kind or nature and is not delinquent in any way. Delinquent status must be disclosed or risk debarment by the PBA Procurement Office.
- 2.25 TERMINATION:** PBA may terminate this agreement with or without cause at any time, by written notice of termination to the contractor. If the PBA terminates this Agreement, and such termination is not a result of a default by the contractor, the contractor shall be entitled to receive as its sole and exclusive remedy the following amounts from the PBA, and the PBA shall have no further or other obligations to the contractor:
- a. the amount due to the contractor for work executed through the date of termination, not including any future fees, profits, or other compensation or payments which the contractor would have been entitled to receive if the project had not been terminated; and
 - b. the direct out-of-pocket costs incurred by the contractor for demobilization of any then current project following receipt of the notice of termination, not to exceed the amount reasonably and actually required to demobilize the project.
- 2.26 WARRANTY:** Contractor warrants to PBA that all items delivered, and all services rendered shall conform to the specifications, drawings, solicitation and/or other descriptions furnished and/or incorporated by reference, and will be fit for the particular purpose purchased, of merchantable quality, good workmanship, and free from defects. Contractor extends to PBA all warranties allowed under the Uniform Commercial Code (U.C.C.).

Contractor shall provide copies of warranties to PBA. Return of merchandise not meeting warranties shall be at contractor's expense.

SECTION III SPECIAL TERMS AND CONDITIONS

- 3.1 INTENT:** PBA intends for this solicitation to set forth and convey to prospective contractors the general type, character, and quality of HVAC equipment, parts, and supplies as desired by PBA from a qualified firm(s) that offers the highest quality of service at an economical price. Award will be based on Best Value. Best Value means more than low cost. It includes initial cost, service quality and other factors detailed herein.
- 3.2 ACCEPTANCE:** Contractors are advised that the payment of an invoice does not necessarily constitute as an acceptance of services that are provided. Acceptance requires a specific written action by PBA so stating.
- 3.3 ACCOUNT SET-UP:** The successful contractor(s) **will be required** to set up separate accounts for each PBA department that may use this term contract. Upon award of the contract, a list of all departments will be provided to the successful contractor(s). The successful contractor(s) will be required to invoice, as well as post payment, to the proper department.

- 3.4 AGENCY CONTACTS:** Contractor(s) will be given a list of key personnel directly associated with the service to be performed for contact information. Only the PBA Procurement Office will have the authority to make changes during the term of this agreement and in compliance with the resulting contract.
- 3.5 AWARD LENGTH:** PBA intends to issue a one (1) year award with the option to renew upon mutual consent of both parties. The term contract may be renewed for four (4) one-year periods, one (1) year at a time, for a possible total of five (5) years. The renewal option is at the discretion of PBA. PBA reserves the right to purchase these goods and/or services from other sources if the need arises.
- PBA reserves the right to revoke the award if a pattern of unavailability or other service issues arise with the contractor(s). Should PBA desire not to renew, no reason needs to be given.
- 3.6 BID EVALUATION:** In evaluating the bids, PBA reserves the right to use any or all of the ideas from the bids submitted without limitation and to accept any part or all of the successful bid(s) in selecting an operation which is judged to be in the best interest of PBA. All material submitted becomes the property of PBA.
- 3.7 CHANGES AFTER AWARD:** It is possible after award that PBA may change its needs or requirements. PBA reserves the right to make such changes after consultation with the contractor(s). Should additional costs arise, PBA reserves the right to consider accepting these charges provided the contractor(s) can document the increased costs. PBA also reserves the right to accept proposed service changes from the contractor(s) if they will lower the cost to PBA and/or provide improved service.
- 3.8 COMMUNICATIONS:** The successful execution of this contract will require extensive communication between all parties involved. While information may be transmitted via telephone, it should always be followed up with a fax transmission or email. It is essential that the contractor have an efficient and properly working fax machine and/or email capabilities. The contractor will be required to submit a list of individuals, along with direct phone number, cell phone numbers, fax numbers and/or email addresses to the agency contracts. These individuals must be familiar with the PBA Contract and have the authority to make adjustments as requested by PBA.
- 3.9 COMPLIANCE WITH ALL APPLICABLE REGULATIONS:** Contractor agrees and covenants that the contractor, its agents and employees will comply with all city, county, state and federal codes, laws, rules and regulations applicable to the business to be conducted under this contract. If the contractor performs any work knowing it to be contrary to such laws, ordinances, rules, and regulations, the contractor will bear all costs arising from them.
- 3.10 CONTRACT EXECUTION:** The award of this IFB may result in a term contract between PBA and the successful contractor(s). Depending on the contract price, the contract may require the approval of the PBA Board of Directors. The PBA Procurement Office will draft the contract. The PBA Procurement Office **will not** accept any contractor's contract. If these types of Master Agreements, Service Agreements, Terms of Agreements or other contract agreements are submitted, they **will** be rejected. Contractors are hereby cautioned that no contract will be binding on PBA unless signed by the PBA Administrator/CEO, as appropriate.
- 3.11 CONTRACTOR CONTACTS:** It will be essential to the success of this contract to develop a good working relationship with the contractor(s). It is imperative that the PBA account be handled efficiently and professionally. PBA should be assigned no more than two (2) contractor contacts to handle billing inquiries and service-related issues. In the event one (1) or both contacts leave the PBA account, the contractor will formally introduce the new contacts to PBA personnel. These contacts must be knowledgeable of PBA's account to avoid any interruption of service.
- 3.12 DESTINATION AND DELIVERY:** Suppliers must include all destination and delivery charges in their price. **There will be no extra hidden charges.** Delivery will be FOB Destination.
- 3.13 DRUG-FREE WORKPLACE PROGRAM:** If contractor has five or more employees receiving pay, contractor must have a drug-free workplace program that complies with Title 50, Chapter 9 of the Code of Tennessee, must obtain a certificate of compliance with the applicable portions of the Drug-Free Workplace Act from the Department of Labor and Workforce, and must provide the Affidavit required by Public Acts, 2000, Chapter 918. Contractor will ensure that it is in compliance with Public Acts, 2000, Chapter No. 918.

- 3.14 EVALUATION CRITERIA:** PBA will evaluate the submitted bids and make a determination of the supplier, or suppliers, with which negotiations will ensue. The factors that will be considered in the evaluation of bids are:

Firm's Pricing and/or Discounts

100 Points

PBA reserves the right to ascertain whether or not the prices submitted are realistic and within the competitive range for these products and this type of service. PBA will consider past experiences and/or concerns with companies during the evaluation stage.

When an evaluation committee is used, the total of all scores received for each category will be averaged for a total amount not to exceed the maximum total score assigned for each category each criterion.

The award will not be based solely on the lowest price or the highest evaluation score on the above stated criteria. The award will be based on Best Value, which will be determined by PBA based on not only the price, the evaluation scores, but also all other factors stated in this IFB and each supplier's responses thereto.

- 3.15 EVALUATION PROCEDURES:** PBA will incorporate the following review procedures in the evaluation of the submitted bids.

- 3.15.1** PBA reserves the right to eliminate bids that are clearly non-responsive to the stated requirements.
- 3.15.2** Each bid received will be evaluated to determine if the supplier meets the minimum criteria and the degree to which the bid is responsive to the requirements of this document. Therefore, suppliers must exercise particular care in reviewing the submittal checklist stating the required documents for this IFB.
- 3.15.3** The detailed evaluation that follows the initial examination may result in more than one finalist. At that point, PBA may request additional information or presentations by suppliers and/or carry out contract negotiations for the purpose of obtaining best and final offers.
- 3.15.4** PBA reserves the right to visit the office(s) and or site(s) of the supplier(s) in order to inspect the facilities and meet key personnel.
- 3.15.5** PBA reserves the right to withdraw this IFB at any time and for any reason, and to issue such clarifications, modifications, and/or amendments as it may deem appropriate.
- 3.15.6** Receipt of a bid by PBA or a submission of a bid to PBA offers no rights upon the supplier nor obligates PBA in any manner.
- 3.15.7** PBA reserves the right to waive minor informalities in bids, provided that such action is in the best interest of PBA. Any such waiver will not modify any remaining requirements of the IFB or excuse the supplier from full compliance with the IFB's specifications and other contract requirements if the supplier is awarded the contract.

- 3.16 EVALUATION REVIEW:** PBA reserves the right to use all pertinent information that might affect PBA's judgment as to the appropriateness of an award to the best evaluated supplier(s). This information may be appended to the bid evaluation process results. Information on a service provider from reliable sources, and not within the service provider's submittal, may also be noted and made part of the evaluation file. PBA will have sole responsibility for determining a reliable source. PBA reserves the right to conduct written and/or oral discussions/interviews after the bid opening. The purpose of such discussions/interviews is to provide clarification and/or additional information to make an award that is in the best interest of PBA.

- 3.17 EXCEPTIONS TO SPECIFICATIONS:** Suppliers taking exception to any part or section of these specifications must indicate such exceptions in their submittal. Failure to indicate any exceptions will be interpreted as the supplier's intent to fully comply with the specifications as written. Conditional or qualified offers are subject to rejection in whole or in part. Any exceptions must be included in Section 5.12 of the submittal. Do not strike through or in any other way alter the IFB. Exceptions listed within other sections of the submittal will not be reviewed or considered.

- 3.18 FEDERAL TRANSPORTATION ADMINISTRATION PROCUREMENTS:** The successful contractor(s) must understand that any/all procurements made for and paid with Federal Transportation Administration (FTA) grant funding must comply with certain additional FTA Clauses. The contractor(s) will be notified prior to quoting a project if the procurement must meet additional FTA Terms and Conditions. PBA will compile the appropriate document containing the FTA Terms and Conditions for contractor compliance authorization. Attached as Attachment K is a list of possible FTA Terms and Conditions and where the explanations of each can be found within the FTA Purchasing Code.

3.19 FORCE MAJEURE: The successful contractor(s) will not be held responsible for acts beyond the control of the parties to which a contract is awarded. PBA recognizes that national and/or international occurrences, unforeseen and beyond control of the contractor, may impact distribution costs. The pricing offered as a result of this IFB is to be based upon known and calculated expenses; therefore, should unexpected occurrences (e.g.: natural disasters, drought, war) happen as stated above, the contractor(s) may request relief only for the duration of said occurrence.

3.20 GRATUITIES AND KICKBACKS: It will be a breach of ethical standards for any person or supplier to offer, give, or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim, or controversy or other particular matter, pertaining to any program requirement of a contract or sub-contract or to any solicitation or submittal therefore.

It will be a breach of ethical standards for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or a person associated therewith, as an inducement for the award of a subcontract or order. Breach of the provisions of this paragraph is, in addition to a breach of this contract, a breach of ethical standards which may result in civil or criminal sanction and/or debarment or suspension from being a contractor or subcontractor under PBA contracts.

3.21 INSURANCE: The successful contractor(s) must carry the insurance as indicated on the Insurance Attachment hereto. As proof of the contractor's willingness to obtain and maintain the insurance, the supplier must complete, sign, have their insurance agent sign, and submit the attachment with their bid.

Upon the Notification of Intent to Award and prior to the contract being fully executed, the successful contractor(s) will be required to submit a Certificate of Insurance (COI) with the specified coverage and listing The Public Building Authority of the County of Knox and the City of Knoxville, Tennessee as additional insured; Endorsement Page(s) must be included. It will be the successful contractor's responsibility to keep a current COI and Endorsement Page(s) on file with PBA Procurement as long as the contract is in effect.

3.22 INTERPRETATION: No oral interpretation will be made to any supplier regarding the meaning of specifications. All questions regarding this IFB are to be submitted in writing or electronically (email) and will be answered in the form of an Addendum to the solicitation by the PBA Procurement Office.

3.23 INVOICE DETAIL: Until a P.O. is in place, a contract is fully executed, or a Notice to Proceed (NTP) is issued, work is not to be performed nor are goods to be delivered. P.O.s, contracts, and NTPs authorize work and obligate payment. PBA does not have a legal obligation to pay for work performed or products provided without one of these documents in place.

PBA requires invoices show the following detail to help expedite review and payment. The contractor(s) may be required to modify invoicing procedures to show the detail. All potential contractors are hereby cautioned that PBA will only pay from original invoices and not facsimiles or copies.

PBA prefers invoices be sent electronically; electronic invoices should be emailed to invoices@ktnpba.org. Alternatively, invoices may be mailed to: Public Building Authority, ATTN: PBA Finance Department, PO Box 2505, Knoxville, TN 37901. Only one invoice method should be used. Invoices sent to an email address or mailing address other than those listed above may not be accepted. Invoices sent by facsimile **will not** be accepted. Invoices which do not adhere to these details may be returned to the contractor for correction. Invoices must meet all other criteria listed herein.

3.23.1 The invoice must show the amount due to the contractor by the PBA division or department.

3.23.2 Invoices for purchases must be submitted monthly.

3.23.3 The invoice must show the P.O. number, if applicable. If a P.O. was not issued, the contract number should be listed.

3.23.4 The invoice must show an itemized detailed material count, including: the date(s) of delivery, the delivery or project location(s), the supplier's cost or MSRP for the item(s), the percentage over cost or off MSRP for the item(s) as stated in the contract, the net cost to PBA for the items(s), and the quantity, if applicable.

3.23.5 Invoices are to be original and uniquely pre-numbered.

3.23.6 Invoices that do not show this information are subject to rejection.

- 3.23.7** Invoices are to be submitted within 60 days of the date the goods or services were delivered to PBA. PBA may deny invoices submitted after the 60-day threshold.
- 3.23.8** Separate invoicing procedures between the successful contractor(s) and other government agencies or departments must be arranged if using as a cooperative contract. Invoice/payment obligations are between the entity receiving goods or services and the successful contractor(s).

3.24 **INVOICE REVIEW:** PBA will review all invoices for adherence to the terms and conditions of the contract. Variations from the contract and contract pricing are strictly prohibited. Any variations found on the invoice will result in the rejection of those invoices. Rejected invoices will be returned to the contractor(s) for correction. If a discount for prompt payment is offered, the timeline does not commence until PBA receives a correct invoice.

3.25 **INVOICING PROCEDURES:** PBA requests that invoices be easy to read and understand. Each participating agency to this contract may require different invoicing information and procedures. This information and procedures will be provided to the successful contractor(s) prior to contract execution. There will be no additional charges for this information and procedures to be included. Suppliers must submit a sample copy of their invoice along with their bid; account information may be deleted.

Submission of an invoice and payment thereof shall not preclude PBA from requesting reimbursement or demanding a price adjustment in any case where the service rendered or product(s) supplied is found to deviate from the terms and conditions of the contract or where the billing was inaccurate. Contractor(s) shall provide, upon request from PBA, any and all information necessary to verify the accuracy of the billings. Such information will be provided in a commercially reasonable manner as requested by PBA.

Each department or division of PBA is responsible for its own budget. Departments cannot charge or pay bills for another department. Therefore, it is critical that your business invoices specify the department that desires to purchase from you. Do not credit payments to any other department's account. There will be no component billing. P.O.s are encumbered by the total sum on the P.O. and cannot be split for partial payment. Only under extenuating conditions and approval by the PBA Director of Finance will partial payments be considered. No guarantee is offered for partial payments. If a complete invoice, submitted in accordance with the guidelines stipulated herein, remains unpaid after thirty (30) days, please contact the PBA Finance Department at 865.215.4630 to determine its status. NOTE: The thirty (30) days does not start until PBA Finance has received an approved invoice for payment from the requesting department.

3.26 **NEGOTIATION:** PBA may select a successful supplier on the basis of initial offers received without discussions. Therefore, each bid must contain the supplier's best terms from a cost or price and service standpoint. PBA reserves the right to enter into contract negotiations including, but not limited to, rates and term with the highest-rated supplier. If PBA and the selected supplier cannot negotiate a successful agreement, PBA may terminate said negotiations and begin negotiations with the next highest-rated supplier. PBA retains the right to negotiate with multiple suppliers simultaneously. This process will continue until an agreement has been reached or all suppliers have been rejected. No supplier will have any rights against PBA arising from such negotiations.

3.27 **NEW MATERIAL:** Unless specified otherwise in the bid package, the supplier must provide new supplies. New, as used in this clause, means previously unused materials. Material includes, but is not limited to, raw material, parts, items, components, and end products. Supplier submission of other than new materials may be cause for the rejection of their bid.

3.28 **NEWS RELEASES BY CONTRACTORS:** As a matter of policy, PBA does not endorse the services of a contractor. A contractor will not make news releases concerning any resultant contract from this solicitation without the prior written approval of PBA.

3.29 **OFFER WITHDRAWAL:** No bid can be withdrawn after it is filed unless the supplier makes a request in writing to the PBA Procurement Office **prior** to the time set for the opening of the IFB or unless PBA fails to accept within ninety (90) days after the date fixed for opening the IFB.

3.30 **PATENTS AND COPYRIGHTS:** The successful contractor(s) shall pay all royalties and assume all costs arising from the use of any invention, design, process, materials, equipment, product, or device in performance of the work, which is the subject of patent rights or copyrights. Contractor(s) shall, at their own expense, hold harmless and defend PBA against any claim, suit or proceeding brought against PBA which is based upon a claim, whether rightful or otherwise, that the work, or any part thereof, furnished under this Agreement, constitutes an infringement of any patent or copyright of the United States. The contractor(s) shall pay all damages and costs awarded against PBA.

3.31 PERSONAL PROPERTY: The successful contractor(s) will be fully responsible for all personal property located within the area where deliveries are made, if applicable. This will include, but not be limited to: parking lot surfaces, sidewalks, benches, tables, fences and/or fence posts, vehicles, mailboxes, driveway culverts, flower gardens, poles, etc. The successful contractor(s) must make immediate notification to the appropriate PBA designee if damage occurs.

The property owner, if applicable, must also be notified immediately and a course of corrective action discussed and agreed upon at the earliest possible time; in no event will the contractor(s) exceed 48 hours to notify the property owner of damage to their personal property.

3.32 PRICING: Contractor warrants that the unit price stated for all items will remain firm for a period of twelve (12) months from the first day of the contract period. If the contractor's price is increased after the initial year, PBA must be given a written notice to consider. Written notice must be received a minimum of ninety days prior to the contract renewal date. Such request must include at a minimum, (1) the cause for the adjustment; and (2) the amount of the change requested with documentation to support the requested adjustment. Price increases will only be considered at the renewal period(s). If the price increase is rejected, the contractor may:

- a. Continue with existing prices;
- b. Submit a lower request for price increase;
- c. Not accept the renewal offer.

If a price increase is approved by PBA, the approval notification will be done in writing and the contractor will be notified of the new price schedule and the effective date of the increase. This documentation will become part of the contract file. No approvals will be authorized verbally. Failure to make a written request within deadline can result in rejection of the request by PBA. PBA will receive all price decreases that are passed on to the contractor during the contract period.

3.33 SUBMITTAL CONTENT: The supplier's response must contain a thorough description of the background of the supplier and sufficient evidence showing that the supplier is capable of providing the goods and/or services. The supplier's response must thoroughly expound on the supplier's understanding of how the proposed services will meet PBA's needs. The bid must also contain an explanation of the supplier's ongoing commitment to service.

3.34 QUALIFICATION OF SUPPLIERS: Each supplier may be required, before the award of any contract, to show to the complete satisfaction of the Director of Finance that it has the necessary facilities, ability, and financial resources to furnish the goods and/or services specified herein in a satisfactory manner, and the supplier may also be required to show past history and references which will enable the Director of Finance to be satisfied as to the supplier's qualifications. Failure to qualify according to the foregoing requirements will justify rejection.

3.35 QUANTITIES: PBA does not guarantee any quantities of services or materials to be purchased from this term contract.

3.36 REJECTION OF BIDS: PBA reserves the right to reject any and all bids received as a result of this request and to waive any informality, technical defect or clerical error in any submittal, as the interests of PBA may require. Non-acceptance of any bid will be devoid of any criticism of the bid and of any implication that the bid is deficient in any manner. Non-acceptance of any bid will be construed as meaning simply that PBA does not deem the bid to be acceptable or that another bid was deemed to be more advantageous to PBA for the particular goods and/or services proposed.

3.37 REMOVAL OF CONTRACTOR'S EMPLOYEES: The successful contractor(s) agrees to utilize only experienced licensed, responsible, and capable people in the performance of the work. PBA may require that the successful contractor(s) remove from the job covered by this contract, employees who endanger persons or property or whose continued employment under this contract is inconsistent with the interest of PBA.

3.38 REPORTS: Successful contractor(s) may be asked to generate needed reports or historical records. Examples include, but are not limited to: past purchases, and/or products used. PBA will expect to receive prompt and legible reports. There will be no additional costs for these reports, if requested.

- 3.39 SAFETY:** Contractor(s) will ensure that its employees observe and exercise all necessary caution and discretion so as to avoid injury to person or damage to property of any and all kinds. All buildings, appurtenances and furnishings must be protected by the contractor from damage, which might be done or caused by work performed under this contract. Such damage to the foregoing must be repaired and/or replaced by approved methods so as to restore the damaged areas to their original condition at the expense of the contractor.

The safety of the public is of primary concern to PBA. The flow of vehicular traffic shall not be impeded at any time during a delivery.

- 3.40 SAFETY EFFORTS:** The contractor must exercise caution at all times for the protection of persons and property. The safety provisions of applicable laws, buildings, and construction codes must be observed. The contractor(s) must also comply with the requirements of the Occupational Safety and Health Act of 1970 and the revisions thereto.

Contractor(s) will be required to furnish their employees with the proper personal protective clothing and equipment. Contractor(s) will also be required to dispose of this clothing and equipment in compliance with all regulatory requirements.

- 3.41 SAFETY TRAINING:** The contractor is responsible for training their employees in safety and health regulations for the job, assuring compliance with the Occupational Safety and Health Act (OSHA), the Environmental Protection Agency (EPA) and any other Regulatory Agency. Suppliers, by submission of their bid, also affirm that their employees working under this contract have been properly trained in the safe operation of any and all equipment to be used under this contract.

- 3.42 SUBMIT QUESTIONS:** Prospective contractors may submit questions concerning this solicitation until **4:30 p.m. Eastern Time on January 10, 2024**. Submit questions as noted in Section 1.1.

- 3.43 SUPPLIER INTERVIEWS:** PBA requests that suppliers demonstrate their capabilities as well as a thorough knowledge of the intent of this IFB. PBA reserves the right to request interviews to gain additional insight into the capabilities and features of the proposed goods or services and to ask questions regarding any portion of same.

- 3.44 SUPPLIER OBLIGATION:** Each supplier must become fully acquainted with conditions relating to the scope and restrictions attending the execution of the work under this IFB. The failure or omission of a supplier to become acquainted with existing conditions will in no way relieve the supplier of any obligations with respect to this IFB or to the contract.

- 3.45 USE OF TRASH CONTAINERS:** Suppliers are advised that PBA policy does not allow contractor(s) to utilize on-site trash bins paid for by PBA. Contractor(s) will be responsible for removing and disposing of all debris associated with the work to be performed.

SECTION IV SPECIFICATIONS

- 4.1 SCOPE OF WORK:** PBA is seeking a contractor(s) for the provision of HVAC equipment, parts, and supplies for PBA managed facilities. The parts to be provided are required to meet equipment performance standards. All PBA managed facilities are located within the boundaries of Knox County and vary in size, type, and complexity of equipment in use. Some examples, for reference purposes only, are the City and County Building, Old Courthouse, senior centers, health departments, and the Regional Forensic Center.

The successful contractor(s) should be able to provide HVAC system and related equipment (e.g.: cooling tower, condensers, boilers, chillers, heat pumps, controls, peripherals, water treatment, gas coolant, filters, ducts, and dampers) as defined by the building equipment, the manufacturer's specifications, and the PBA designee.

- 4.2 BIDS REQUESTED ON BRANDS OR EQUAL:** Unit price bids are requested on products that equal or exceed the quality and performance of the brands and model numbers listed. References to brand names, trade names, model numbers or other descriptions particular to specific brand products are made to establish a required level of quality and functional capabilities and are not intended to exclude other products of that level. Comparable products of other manufacturers will be considered if proof of comparability is contained in the bid. It shall be the responsibility of the bidders, including bidders whose product is referenced, to furnish with the bid such specifications, catalog pages, brochures or other data as will provide an adequate basis for determining the quality and functional capabilities of the product offered. Failure to provide this data may be considered a valid justification for rejection of a bid.

4.3 CONTRACTOR'S RESPONSIBILITIES: All work performed under this contract must be performed in accordance with all provisions of these specifications or plans and must be approved in writing by PBA. By submitting a bid, the owner or their representative acknowledges and accepts this clause. The contractor(s) will be presumed to have made a reasonable review of the scope of services prior to the time of bidding and will be held responsible for all information available through the solicitation documentation, quote documentation, and/or inspection. The contractor(s) must immediately upon discovery, bring to the attention of PBA any conflicts that may occur among the various provisions of the specifications. Failure of the contractor(s) to bring conflicts or exceptions to the attention of PBA will allow PBA to require any changes deemed necessary before acceptance by PBA.

- 4.3.1 Suppliers must list the manufacturer(s) and parts supplier(s) for which their company provides products.
- 4.3.2 The contractor(s) will be required to have ample equipment and staff available to complete multiple projects simultaneously as required by PBA during the contract period.
- 4.3.3 The contractor(s) must maintain a supply of sufficient inventory of parts (e.g.: capacitors, relays, contactors, freon, and recovery motors) necessary for the performance of routine maintenance and restoration of service following minor shutdowns.
- 4.3.4 The contractor(s) must be capable of obtaining major parts (e.g.: compressors, coils, and heat exchangers) quickly to prevent prolonged loss of service in the event of failure of covered units. Upon request, contractor(s) will provide their source for these major parts and an estimated lead time for delivery.
- 4.3.5 The successful contractor(s) will make recommendations regarding energy efficiency, life-expectancy, and capital replacement in writing to the PBA designee.

4.4 EQUIPMENT, PARTS, AND SUPPLIES:

- 4.4.1 PBA will purchase HVAC parts, equipment, and supplies (e.g.: complete units, pumps, and condensers) as needed. Suppliers must submit a price in the form of a discount off published MSRP or a cost-plus option that will allow PBA to purchase supplies. Suppliers must list all HVAC manufacturers with whom they are a licensed dealer for and can provide parts from.
- 4.4.2 Basic/Routine parts should be available within 24 hours of the order being placed.
- 4.4.3 All parts, equipment, and supplies provided must meet the manufacturer's specifications unless otherwise approved by the PBA designee.

4.5 HOURS OF WORK: Normal delivery hours for most PBA's managed facilities are Monday through Friday from 8:00 a.m. to 4:00 p.m. Eastern Time. PBA's observed holidays are: New Year's Day, Martin Luther King, Jr. Day, Presidents Day, Spring Holiday, Memorial Day, Emancipation Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, Day after Thanksgiving and Winter Holiday (two-day holiday, December 25 and one other day to be announced annually by the County Mayor). Deliveries outside the normal business hours above or on holidays will require PBA's prior approval.

PBA may also issue POs with a "Will Call" option. In these cases, the PBA designee's name and phone number will be listed on the PO so they can be contacted when the item(s) are ready to be picked up.

4.6 MATERIALS: All materials furnished must:

- 4.6.1 Be new.
- 4.6.2 Be Underwriters Laboratories listed, where applicable.
- 4.6.3 Be of standard professional quality and workmanship.
- 4.6.4 Conform to or exceed the general quality level of the base unit.
- 4.6.5 Be parts produced by the original manufacturer except with prior approval from the PBA designee in an emergency.
- 4.6.6 Be Energy Star rated equipment, where available.
- 4.6.7 Not be "custom" or substitute equipment unless prior written approval of the PBA designee is provided.

4.7 SUBCONTRACTORS: PBA must approve subcontractor(s) prior to them beginning work. Subcontractors must carry the insurance coverage as outlined herein. It will be the contractor's responsibility to have satisfactory Certificates of Insurance for any subcontractor(s). The contractor will provide subcontractor(s)' Certificates of Insurance to PBA Procurement without expense prior to them commencing work on any PBA project.

4.8 SUPPLEMENTAL INSTRUCTIONS:

- 4.8.1** It is not necessary to return pages 1 through 15 of this IFB in your response.
- 4.8.2** Section 5.16 should be used as a checklist when preparing your response and should be completed and included with your submittal.
- 4.8.3** Pages 16 through 43 must be completed and returned. NOTE: Each of these pages require initials in the lower right corner or signatures.

SECTION V SUPPLIER INFORMATION – INVITATION FOR BIDS NUMBER 2024.011, HVAC EQUIPMENT, PARTS, AND SUPPLIES

Solicitations must be in a sealed envelope/box prior to entering the Procurement Office. Procurement Office personnel are not allowed to see the submittal nor assist in placing documents in an envelope/box. Additionally, the Procurement Office is not responsible for providing materials (e.g.: envelopes, boxes, tape) for submittals.

5.1 Supplier’s Legal Business Name: _____

5.2 Supplier’s Business Address: _____

City: _____ State: _____ Zip: _____

5.3 Supplier’s Employee Identification Number (EIN): _____

5.4 Supplier’s Website Address: _____

5.5 Contact Person’s Name: _____

5.6 Contact Person’s Email Address: _____

5.7 Contact’s Person’s Phone Number: _____

5.8 Contact Person’s Cell Phone Number: _____

5.9 Supplier’s Fax Number, if applicable: _____

5.10 Authorizing Signature: _____

By submission of this bid, each supplier and each person signing on behalf of any supplier certifies, and in the case of a joint bid each party thereto certifies as to its own organization, that to the best of its knowledge and belief that each supplier is not presently debarred or suspended by any governmental entity.

5.11 I acknowledge the receipt of: (please write “yes” if you received one)

Addendum 1 _____ Addendum 2 _____ Addendum 3 _____ Addendum 4 _____

5.12 Do you accept the terms and conditions of the bid? YES NO YES, WITH EXCEPTION
(Please circle your answer)

If you do not fully accept the terms and conditions, please note the exceptions below:

5.13 Total Number of Local Employees: _____

5.14 Total Number of Years in Business: _____

5.15 Business Location(s): Attach additional pages, if necessary.

Address:

Hours of Operation:
Monday – Friday: _____
Saturday: _____

SECTION V SUPPLIER INFORMATION – INVITATION FOR BIDS NUMBER 2024.011, HVAC EQUIPMENT, PARTS, AND SUPPLIES – CONTINUED

Supplier’s Name: _____

Address:

Hours of Operation:

Monday – Friday: _____

Saturday: _____

5.16 Supplier’s Checklist: This checklist is provided to assist you with confirming that your submittal is complete. Please review and respond to each question or statement below.

ITEM	DESCRIPTION	YES	NO
5.16.1	Are you sealing your submittal documents as detailed in Section 1.5?		
5.16.2	Have you included the fully executed Statement Concerning Conflicts of Interest Affidavit as detailed in Section 1.8?		
5.16.3	Will you allow Cooperative Purchasing as detailed in Section 1.10?		
5.16.4	Did you include the correct number of exact copies as detailed in Section 1.11?		
5.16.5	Did you register/are you registered as a vendor as outlined in Section 1.16?		
5.16.6	Did you provide information noting whether your company is Minority-, Women-, Veteran-Owned, Small business, or a combination thereof as detailed in Section 1.18. Include any third party or other certification supporting the company’s designation(s).		
5.16.7	Will you accept PBA’s credit card as payment as detailed in Section 1.21?		
5.16.8	Have you included the fully executed Iran Divestment Act Affidavit as detailed in Section 2.16?		
5.16.9	Have you included the fully executed Non-Boycott of Israel Act Affidavit as detailed in Section 2.18?		
5.16.10	Will you allow PBA designees to tour and inspect your facility(ies) as detailed in Section 2.22?		
5.16.11	Did you attach a copy of your current county and city business tax license, as applicable?		
5.16.12	Have you included the fully executed Drug-Free Workplace Affidavit as detailed in Section 3.13?		
5.16.13	Have you included the fully executed FTA Affidavits for Lobbying and Suspension/Debarment as detailed in Section 3.18?		
5.16.14	Have you included the Insurance Checklist with your bid as detailed in Section 3.21?		
5.16.15	Have you included a sample invoice with your bid as detailed in Section 3.25?		
5.16.16	Does your company ship items to customers?		
5.16.17	Does your company allow “Will Call” for customers to pick up orders?		
5.16.18	Can your company meet any schedule and/or deadlines as stated in this IFB?		
5.16.19	Will you offer a discount for payment (e.g.: volume discounts, prompt payment, EFT)? If yes, please list applicable details.		
5.16.20	Did you complete and enclose Section VI – Pricing?		

5.17 Additional Information: Suppliers may submit additional information regarding their company and the products and/or services they offer, believe are necessary to fully provide the goods and/or services, or believe would be beneficial to PBA within the context of the services requested in this IFB. NOTE: Please specify and include documentation regarding unique equipment or capabilities. Suppliers may include advertisements, letters of recommendation, awards, et cetera.

Failure to include any of the above information or any other information requested may result in the supplier being disqualified.

SECTION VI SUPPLIER PRICING – INVITATION FOR BIDS NUMBER 2024.011, HVAC EQUIPMENT, PARTS, AND SUPPLIES

SUPPLIER’S NAME: _____

6.1 PERCENT DISCOUNT FROM CATALOG PRICING: Suppliers must note the percent over cost or percent discount off published MSRP or a published catalog pricing chart that will be provided to PBA for the term of the contract for all products. A discount may be “across the board” or different per manufacturer or product. Bids requested on brands referenced or equal as per Section 4.2 of the IFB. If your company does not provide an item listed below, please list N/A; there should not be any blank fields in this portion of your submittal.

Cost of Supplies for PBA (Sample Listing)						
*NOTE: MSRP/Cost and Cost to PBA will only be used for evaluation purposes and to track current market conditions. The Supplier will only be held to the percent discount or mark-up for the Contract.						
Item	Description	Manufacturer	Brand Name	MSRP or Cost*	Percent discount (-) or Mark-up (+)	Cost to PBA*
6.1.1	Coil; complete assembly, GEVE150 Back Return (COL32381)			\$	%	\$
6.1.2	7.5 HP Danfoss Chassis Mount VFD Drive			\$	%	\$
6.1.3	Compressor ZPD61 Circuit 14			\$	%	\$
6.1.4	24K BTU Outdoor Heat Pump Single Zone Unit			\$	%	\$
6.1.5	G5Twin Twin Cylinder Recovery Unit			\$	%	\$
6.1.6	Mark IV Control Board			\$	%	\$
6.1.7	24K BTU Indoor Wall Mount			\$	%	\$
6.1.8	Trane MOD01802 Control Board			\$	%	\$
6.1.9	Honeywell 8110 Thermostat			\$	%	\$
6.1.10	1HP 230V 3PH 56FR Blower Motor			\$	%	\$
6.1.11	AC/DC Clamp Meter			\$	%	\$
6.1.12	25 lb. Drum R-410a			\$	%	\$
6.1.13	40 cu. Ft. Nitrogen Tank Outright (Less Gas)			\$	%	\$
6.1.14	3H/2C Thermostat compatible with heat pumps			\$	%	\$
6.1.15	1H/1C Thermostat compatible with heat pumps			\$	%	\$
6.1.16	Interconnect Cable 4C 14G 100' 14/4			\$	%	\$
6.1.17	Digital Refrigerant Charging Scales			\$	%	\$
6.1.18	Pressure/Flow Hybrid Regulator 3000psig Nitrogen			\$	%	\$
6.1.19	460-L LITTELFUSE 3 Phase Voltage Monitor 190-480V			\$	%	\$
6.1.20	11 GPH Universal Condensate Removal Pump (120/240V)			\$	%	\$
6.1.21	5-in-1 Universal Treatment Injector for Refrigerant System Treatments			\$	%	\$
6.1.22	Metal Bolt Cutter			\$	%	\$

SECTION VI SUPPLIER PRICING – INVITATION FOR BIDS NUMBER 2024.011, HVAC EQUIPMENT, PARTS, AND SUPPLIES – CONTINUED

SUPPLIER’S NAME: _____

Item	Description	Manufacturer	Brand Name	MSRP or Cost*	Percent discount (-) or Mark-up (+)	Cost to PBA*
6.1.23	2" to 12" Adjustable Metal Hole Cutter			\$	%	\$
6.1.24	3" Hand Seamer			\$	%	\$
6.1.25	8" x 25' R6 Flexible Air Duct - Bagged			\$	%	\$
6.1.26	6" x 25' R6 Flexible Air Duct - Bagged			\$	%	\$
6.1.27	13/16" x 1 5/8" x 10' 14G Galvanized Strut			\$	%	\$
6.1.28	120V Condensate Pump with a minimum of 20ft of lift			\$	%	\$
6.1.29	60.5, 440/370V Round Capacitor			\$	%	\$
6.1.30	Flush Gun			\$	%	\$
6.1.31	R40 Oxygen Tank – 40 cu. ft. Exchange (full)			\$	%	\$
6.1.32	ClimateMaster Water Source Heat Pump – 3 tons, above ceiling tile, horizontal, 3-phase 220V			\$	%	\$
6.1.33	ClimateMaster Water Source Heat Pump – 5 tons, above ceiling tile, horizontal, 3-phase 220V			\$	%	\$
6.1.34	ECM Programmable Motors 1/5 to 1/2 HP			\$	%	\$
6.1.35	Low Voltage Flow Valve Single Duty 3/4"			\$	%	\$
6.1.36	Circuit Setter 3/4"			\$	%	\$
6.1.37	Cartridge Stainer 3/4"			\$	%	\$

	ITEM	DESCRIPTION	CIRCLE YOUR RESPONSE FOR PRICING	PRICING OR PERCENTAGE
	MISC.	6.1.38	Percent discount off MSRP or cost-plus for parts and accessories. (Supplier(s) must be able to show the MSRP cost, the percent discount and the final cost to PBA).	Discount off MSRP OR Cost-plus
6.1.39		Please list the manufacturers' names of products that you stock. NOTE: If the percentage is not "across the board," please include the percentage for each manufacturer. If your list includes more than 15 manufacturers, please attach a separate page with the information for the additional manufacturers.	1. _____ 2. _____ 3. _____ 4. _____ 5. _____ 6. _____ 7. _____ 8. _____ 9. _____ 10. _____ 11. _____ 12. _____ 13. _____ 14. _____ 15. _____	

Failure to provide any of the above information or any other information requested in this solicitation document may be cause for disqualification.

**ATTACHMENT A
PBA PROCUREMENT OFFICE
INVITATION FOR BIDS NUMBER 2024.011
PUBLIC BUILDING AUTHORITY CODE OF ETHICS**

WHEREAS, the Public Building Authority of the County of Knox and the City of Knoxville, Tennessee (“PBA”) adopted on January 5, 1996 a conflicts of interest policy applicable to persons who submit bids or proposals or negotiate with respect to contracts to supply goods or services, and

WHEREAS, such conflicts of interest policy needs to be updated to correlate with PBA’s current Code of Ethics, which was adopted on January 28, 2008;

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF PBA AS FOLLOWS:

General Statement

PBA is a public entity established by the County and the City. It is charged with the responsibility of acting in the best interests of the City and County and their citizens. Accordingly, PBA’s directors, officers and employees are held to the highest ethical standards and should:

- (i) conduct PBA’s affairs honestly, fairly, impartially and in good faith;
- (ii) avoid all situations that might lead to a real or apparent, material conflict between self-interest and the duties and responsibilities as an employee, officer or director;
- (iii) exercise good judgment to act within the spirit, as well as the letter, of this Code of Ethics, and seek guidance from appropriate persons, when necessary to follow an appropriate course of conduct; and
- (iv) take care to avoid any appearance of impropriety, and any circumstances that may raise questions about PBA’s honesty, impartiality, or reputation or otherwise cause embarrassment to PBA.

Section 1. Definitions

- 1.1 “PBA” means the entity which currently develops, constructs, owns, and/or maintains certain facilities on behalf of the City of Knoxville and Knox County pursuant to operating contracts with those entities.
- 1.2 “Covered Persons” means PBA personnel consisting of all full-time and part-time appointed officials and employees (whether compensated or not), including PBA’s directors and officers and the members of any separate board, commission, committee, authority, corporation, or other instrumentality appointed or created by PBA.
- 1.3 “Personal interest” means, for the purpose of disclosure of personal interests in accordance with this Code of Ethics:
 - (a) Any financial, ownership, or employment interest in the subject of a vote by PBA not otherwise regulated by state statutes on conflicts of interests; or
 - (b) Any financial, ownership, or employment interest in a matter to be regulated, supervised, or otherwise acted on in an official capacity; or
 - (c) Any such financial, ownership, or employment interest of the Covered Person’s spouse, parent(s), stepparent(s), grandparent(s), sibling(s), child(ren), stepchild(ren), nieces, nephews, and those related to a Covered Person by marriage.
 - (d) The words “employment interest” include a situation in which a Covered Person or a designated family member is negotiating possible employment with a person or organization that is the subject of the vote or that is to be regulated or supervised.
 - (e) In any situation in which a personal interest is also a conflict of interest under state law, the provisions of the state law take precedence over the provisions of this section.

Initials _____

- 1.3 "Ethics Officer" means PBA's ethics officer, who will be appointed to a four-year term by the Board of Directors of PBA. If the Ethics Officer's term of office, as a Director, is less than four years, the term of his or her appointment as Ethics Officer will be the balance of his or her term as a Director.

Section 2. Disclosure of Personal Interest in Voting Matters.

- 2.1 A Covered Person with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote and to be included in the minutes, any personal interest that affects or that would lead a reasonable person to infer that it affects the official's or employee's vote on the measure.
- 2.2 In addition, the Covered Person shall recuse himself or herself from voting on the measure unless, in the judgment of the Ethics Officer, such personal interest is deemed to be de minimis, in which case recusal from voting on the measure is permissive rather than mandatory. In all other instances of a personal interest, following the disclosure thereof, the Covered Person shall recuse himself or herself from voting on the measure.

Section 3. Disclosure of Personal Interest in Nonvoting Matters.

- 3.1 A Covered Person who must exercise discretion relative to any matter other than casting a vote, and who has a personal interest in the matter that affects, or that would lead a reasonable person to infer that it affects, the exercise of the discretion, shall disclose, before the exercise of the discretion when possible, the interest. In addition, the Covered Person shall recuse himself or herself from the exercise of discretion in the matter. The Covered Person shall disclose the personal interest to the Ethics Officer, unless the Covered Person is an employee, in which case the employee shall disclose the interest in accordance with PBA's human resources policies and the reporting structure then in effect.
- 3.2 A Covered Person who has a personal interest or potential personal interest in a project with which PBA is involved, whether or not PBA may or may not be directly involved in any direct transaction with the Covered Person, should disclose that interest as required by Section 3.1 as soon as he/she is aware of the circumstances. The Ethics Officer, or PBA's management, as the case may be, may then recommend to the Board or Administrator that PBA withdraw from involvement in the project or may simply disclose the interest or potential interest to the Board of Directors for its consideration.

Section 4. Acceptance of Money, Gifts and Gratuities.

- 4.1 Neither a Covered Person, nor any other person described in Section 1.3(c), may accept, directly or indirectly, any money, gift, gratuity, or other consideration or favor of any kind from anyone:
- (a) For the performance of an act, or refraining from performance of an act, that he or she would be expected to perform, or refrain from performing, in the regular course of his or her duties; or
 - (b) That a reasonable person would understand was intended to influence the vote, official action, or judgment of the Covered Person in executing the business of PBA; provided, however, that the following shall not be interpreted as an attempt to influence the action of a Covered Person: (i) a gift or gratuity that is not cash or a cash equivalent (such as a check or gift card), and which has a value of twenty-five dollars (\$25.00) or less, and (ii) gifts and gratuities from any single person or entity that comply with subsection (i) and do not exceed in the aggregate \$100.00 during any calendar year.
- 4.2 PBA's Administrator may direct that no PBA employee may accept a gift or gratuity, even though it may have a value of twenty-five dollars (\$25.00) or less.

Section 5. Use of Information.

- 5.1 A Covered Person may not disclose any information obtained in his or her official capacity or position of employment that is made confidential under state or federal law except as authorized by law.
- 5.2 A Covered Person may not use or disclose information obtained in his or her official capacity or position of employment with the intent to result in financial gain for himself or herself or any other person or entity.

Initials _____

Section 6. Use of Time, Facilities, and Other Assets.

- 6.1 A Covered Person may not use or authorize the use of PBA time, facilities, equipment, or supplies for private gain or advantage to himself or herself.
- 6.2 A Covered Person may not use or authorize the use of PBA time, facilities, equipment, or supplies for private gain or advantage to any private person or entity, except as authorized by legitimate contract or lease approved in accordance with the provisions of this Code.

Section 7. Use of Position or Authority.

- 7.1 A Covered Person may not make or attempt to make private purchases, for cash or otherwise, in the name of PBA.
- 7.2 A Covered Person may not use or attempt to use his or her position to secure any privilege or exemption for himself or herself or others that is not authorized by the charter, general law, or ordinance or policy of the County or City or the charter, bylaws or policies of PBA.

Section 8. Outside Employment.

A Covered Person, may not accept or continue any outside employment if the work unreasonably inhibits the performance of any affirmative duty of a PBA Covered Person or conflicts with any provision of PBA's charter or any ordinance or policy. This policy is in addition to, and not a substitute for, any personnel or human resources policies adopted by PBA from time to time. This Section 8 does not apply to PBA's Directors.

Section 9. Ethics Complaints.

- 9.1 Questions and complaints regarding violations of this Code of Ethics or of any violation of state law governing ethical conduct should be directed to the Ethics Officer, who is designated and appointed by PBA's Board of Directors. If the Ethics Officer is the subject of an alleged violation, the question or complaint shall be directed to the Chair of the Board of Directors, who may exercise any of the authority and powers vested in the Ethics Officer under this Section.
- 9.2 Except as otherwise provided in this Section 9, the Ethics Officer shall hear, review, and investigate any credible complaint against an appointed official or employee charging any violation of this Code, or may undertake an investigation on his or her own initiative when he or she acquires information indicating a possible violation. The Ethics Officer may render an oral or written advisory ethics opinion based upon this Code and other applicable law, and may make recommendations for action to end or seek retribution for any activity that, in the Ethics Officer's judgment, constitutes a violation of this Code of Ethics.
- 9.3 The Ethics Officer may request that the Board of Directors establish a separate Ethics Committee to aid in the hearing, review, and investigation of, as well as the formation of a final opinion on, any credible complaint. In all phases of investigation and review, the Ethics Officer is encouraged to consult PBA's General Counsel regarding the final opinion rendered and any further action to be taken.
- 9.4 The Ethics Officer may recommend that PBA's General Counsel hire another attorney, individual, or entity to act as ethics officer when he or she has or will have a conflict of interest in a particular matter. The Ethics Officer may also proceed with review of the matter, and make an advisory report and recommendation to the full Board of Directors. The Ethics Officer may additionally request that the General Counsel participate in this meeting, and the Counsel may render opinions on the alleged conflict of interest.
- 9.5 The interpretation that a reasonable person in the circumstances would apply shall be used in interpreting and enforcing this Code of Ethics.
- 9.6 When a violation of this Code of Ethics also constitutes a violation of a personnel policy, rule, or regulation, or a civil service policy, rule, or regulation, the violation shall be dealt with as a violation of the personnel or civil service provisions rather than as a violation of this Code of Ethics.

Initials _____

Section 10. Violations.

- 10.1 An appointed Director of PBA or a member of a board, commission, committee, authority, corporation, or other instrumentality of PBA, who violates any provision of this Code, is subject to punishment as provided by this Code or any other applicable law, and in addition is subject to censure by the Board of Directors upon recommendation by the Ethics Officer or other person serving in a similar role under Section 9.
- 10.2 A Covered Person, who violates any provision of this Section, is subject to further disciplinary action authorized by PBA's enabling legislation, charter, bylaws, and other established policies and by any Code of Ethics adopted by the City or the County.

Section 11. Applicable State Laws.

In addition to the ethical principles set out in this Code of Ethics, state laws also provide a framework for the ethical behavior of Covered Persons in the performance of their duties. Covered Persons should familiarize themselves with the state laws applicable to their office or position and the performance of their duties. To the extent that an issue is addressed by state law (law of general application, public law of local application, local option law, or private act), the provisions of that state law, to the extent they are more restrictive, shall control.

Section 12. Bidders, Requests for Proposals, etc.

- 12.1 Any person who submits a bid or proposal or negotiates with respect to a contract to supply goods or services ("Bidder") shall:
- (a) contemporaneously in writing advise PBA of all personal interests with (i) any Covered Person, (ii) any holder of a public office of Knox County or the City of Knoxville, (iii) any employee of Knox County or the City of Knoxville, or (iv) any agency or board of Knox County or the City of Knoxville or any officer or employee thereof; and
 - (b) contemporaneously in writing advise PBA whether there is an agreement to pay a commission to any Covered Person with an identification of such Covered Person; and
 - (c) refrain from aiding, encouraging or facilitating a violation of any provision contained in this Code of Ethics.
- 12.2 Upon receipt of such information provided pursuant to Section 12.1(a)-(b), the Ethics Officer shall review such information using the same procedures as provided in Section 9.
- 12.3 All Bidders are to understand that PBA may refuse to award a contract where, in the sole discretion of the Ethics Officer or the Board of Directors, a conflict of interest or ethical consideration is of such substance and nature as will diminish the public's confidence in the openness, fairness and honesty of actions of PBA or otherwise will violate the General Statement or any other provision contained herein.
- 12.4 A failure to disclose or otherwise comply in accordance with these standards shall be subject to any available remedy at law and shall further be subject to such sanctions as the Board of Directors may determine including but not limited to discharge or termination of contract and/or disgorgement of benefits.

Initials _____

ATTACHMENT B
PBA PROCUREMENT OFFICE
INVITATION FOR BIDS NUMBER 2024.011

RESOLUTION
Respecting Conflicts of Interest for Employees & Contractors
ADOPTED JANUARY 5, 1996

WHEREAS, the Public Building Authority of the County of Knox and the City of Knoxville, Tennessee, has operated with informal conflict of interest rules and

WHEREAS, such informal rules have served the PBA well to this point in time, and

WHEREAS, the PBA is being called upon to perform services beyond the ownership and operation of the City County Building, and

WHEREAS, it is now deemed appropriate that certain formal standards be adopted, and

WHEREAS, it is contemplated that a disadvantage of formal standards is the inability to cover all potential situations that may arise, and

WHEREAS, in adopting written standards it is clearly the intent of the of the Board of Directors of PBA that the standards are to be understood to serve the underlying purpose of maintaining public trust and confidence in the openness, fairness and honesty of actions of PBA without narrow reliance being placed upon precise wording of the standards;

NOW THEREFORE, it is received by the Board of Directors of the Public Building Authority of the County of Knox and the City of Knoxville, Tennessee;

SECTION ONE: That the following standards of conduct are hereby established:

1. No official or employee of PBA or any family member, shall accept anything of value from any person who performs services for, or sells or supplies anything to PBA unless the same is immediately disclosed in writing to the Executive Committee. Providers of professional services under contract are not subject to this standard but are subject to Standard No. 2 and No. 3.
2. All persons who are involved on behalf of PBA in the process of awarding contracts for performance of services or supplying goods, shall disclose to the Board of Directors all economic association or kinship with the persons or principals who are under consideration for this contract.
3. No person who is involved on behalf of PBA in the process of awarding a contract shall have direct or indirect interest in the proceeds of the contract except upon full disclosure to the Board of Directors.
4. Any person who submits a bid or proposal or negotiates with respect to a contract to supply goods or services shall contemporaneously in writing advise the PBA:
 - a. Of all economic association and kinship relationship with any officer or employee of PBA, or any holder of a Knox County or the City of Knoxville public office or an employee of Knox County or the City of Knoxville, or any of their agencies or boards.
 - b. Whether there is an agreement to pay a commission to any other person with an identification of such other person.

SECTION TWO: The following procedures shall apply:

1. Upon receipt of any information or written disclosure respecting a possible conflict of interest, counsel for PBA may be directed to give written advice to PBA both with respect to any legal implications and any perceived ethical considerations implicit in the situation.
2. If the matter should involve counsel, (such as the counsel's contract to provide legal services), the Executive Committee shall consider whether to obtain independent legal advice to consider such possible conflict of interest.

Initials _____

3. All contracts which are the subject of a disclosure of information described in these standards shall be considered by the full Board. The subject disclosure and the action of the Board respecting the same shall be evidenced in the minutes of the Board of Directors.
4. All persons submitting a proposal for a contract for goods or services are to understand that the Board of Directors may refuse to award a contract where, in the sole discretion of the Board, such a conflict of interest or ethical consideration is of such substance and nature as will diminish the public's confidence in the openness, fairness and honesty of actions of PBA. A copy of this resolution will be supplied to all persons who bid or negotiate for the supplying of services or goods and all requests for proposal or bid issues by PBA shall incorporate this resolution as a condition.
5. A failure to disclose in accordance with these standards shall be subject to such sanctions as the Board of Directors may determine including but not limited to discharge or termination of contract and/or disgorgement of benefits.

(NOTE: Mechanically, in routine matters, a proposal to PBA will be accompanied by a disclosure of possible conflicts of interest on a form to be supplied by PBA. The administration will initially review the same to determine if legal advice may be needed and may request the same. When the proposed contract is presented for approval to the Board, a copy of the disclosure statement and any response of legal counsel will be supplied to Board members. If the Board determines that the disclosed matters are not substantial or significant to their decision, the minutes will refer to the disclosure statement and reflect the action for the Board in concluding the matters are not substantial or significant.)

Initials _____

**ATTACHMENT C
PBA PROCUREMENT OFFICE
INVITATION FOR BIDS NUMBER 2024.011**

**AFFIDAVIT CONCERNING CONFLICTS OF INTEREST AND COMMISSIONS AND NON-DISCRIMINATION
REGARDING POTENTIAL CONTRACTS WITH THE PUBLIC BUILDING AUTHORITY
OF THE COUNTY OF KNOX AND CITY OF KNOXVILLE, TENNESSEE**

The undersigned is in the process of submitting a response to a Invitation for Bids issued by the Public Building Authority of the County of Knox and City of Knoxville, Tennessee ("PBA").

The undersigned acknowledges that it has received and reviewed a copy of the PBA Conflict of Interest Policy, a copy of which is attached above.

The undersigned agrees to be bound by the terms of the Conflict of Interest during the selection process and during the term of any services, which the undersigned may provide or render to PBA in connection with the project.

The undersigned hereby certifies to PBA as follows:

1. The Response to the Invitation for Bids submitted by the undersigned is not the result of, or affected by, any unlawful act of collusion with any other Person (defined below) engaged in the same line of business or commerce, or any other act prohibited by the laws, rules and regulations of the United States of America or the State of Tennessee.
2. Except as set forth below, no person involved in the submission of the bid has any financial, business, or economic association or interest or kinship relationship with (i) any officer, director or employee of PBA, (ii) any holder of a public office of Knox County or the City of Knoxville, (iii) any employee of Knox County or the City of Knoxville, or (iv) any agency or board of Knox County or the City of Knoxville or any officer, director or employee thereof. A kinship relationship means a person's spouse, parent(s), stepparent(s), grandparent(s), sibling(s), child(ren), stepchild(ren), niece(s), nephew(s), and those similarly related to a person by marriage.
3. Except as set forth below, neither the undersigned nor any other person involved in submitting the bid to PBA has entered into an agreement to pay, or has paid, directly or indirectly, a commission, fee or any other form of consideration to any other person in connection with the bid submitted to PBA or any contract for services to be rendered to PBA. Furthermore, except as set forth below, neither the undersigned nor any other person involved in submitting the bid to PBA has or will give, directly or indirectly, any money, gift, gratuity, or other consideration or favor of any kind prohibited by the PBA Conflict of Interest.
4. During the performance of services pursuant to any contract with PBA, the undersigned agrees that it will not discriminate against any employee or applicant for employment because of race, religion, sex, national origin or physical impairment, except when religion, sex, national origin or physical impairment is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor.
5. During the performance of services pursuant to any contract with PBA the undersigned will comply with the PBA Conflict of Interest and not take, or fail to take, any action that would constitute a breach of the PBA Conflict of Interest or render this Certificate untrue.
6. For the purpose of this Certificate, the term "person" means any individual, partnership, corporation, limited liability company, trust, unincorporated association, joint venture or other entity, or a governmental body.

Initials _____

Complete for acknowledgement and agreement to comply below.

ECONOMIC ASSOCIATION OR KINSHIP RELATIONSHIPS

Person/Entity *Relationship*

COMMISSIONS

Payee Name *Payee Address* *Agreed Commission*

BY (Authorized Representative, Organization)

DATE

PRINTED NAME

TITLE

ADDRESS

SWORN TO AND SUBSCRIBED BEFORE ME

This _____ day of _____, 20_____

Notary Public

My Commission Expires: _____

(Affix seal)

**ATTACHMENT D
PBA PROCUREMENT OFFICE
INVITATION FOR BIDS NUMBER 2024.011
INSURANCE CHECKLIST**

THE CERTIFICATE OF INSURANCE MUST SHOW ALL COVERAGES & ENDORSEMENTS FOR ALL ITEMS LISTED BELOW.

The contractor must provide proof of insurance prior to execution of the contract in the amount specified herein. The contractor must purchase and maintain, during the life of the contract, the following insurance, which will be written for not less than the following limits:

1. Workers' Compensation and Employer's Liability meeting the statutory limits mandated by the State of Tennessee and the federal laws.
2. Commercial General Liability Occurrence policy including coverage for Premises-Operations, Automobile Liability, Owner Hired/Non-Owner Hired, Independent Vendor, Completed Operations, Contractual Liability, and Personal and Advertising Injury:
 - a. \$1,000,000 Each Occurrence
 - b. \$2,000,000 General Aggregate
 - c. \$1,000,000 Personal & Advertising Injury
 - d. \$1,000,000 Products-Completed Operations Aggregate

The policy must be endorsed to have the General Aggregate apply to per project.

3. The Firm must provide Liability Insurance with a limit not less than \$1,000,000 per claim per policy period, with a deductible satisfactory to PBA. Such coverage must be in effect prior to commencement of the contract and include prior-acts endorsement. The contractor(s) must maintain coverage in the same amount on a continual basis for at least five (5) years after the substantial completion of the work.
4. The contractor must purchase a Following Form Umbrella policy to provide coverage in the amount of \$1,000,000 in excess of the coverages specified in paragraphs 1 and 2.
5. All insurance policies procured by the contractor will provide for the waiver of subrogation of all claims against PBA, the City of Knoxville, Tennessee, and Knox County, Tennessee, and their respective officers, directors, agents, employees, agencies, and Instrumentalities.
6. Carrier rating shall have a BEST's rating of A-VII or better or its equivalent.
7. The contractor and/or its insurance carrier will be responsible for notifying PBA of any pending cancelation, non-renewal or material change in coverage in accordance with the policy provisions. Copy of policy provisions must be provided to PBA, if requested.
8. PBA must be listed as an Additional Insured on all policies except Automobile and Workers' Compensation. Endorsement Page(s) must be provided for each Certificate of Insurance (COI) as long as the contract is in effect.
9. The Certificate of Insurance must show the IFB or contract number and title.
10. The Certificate Holder field shall read: The Public Building Authority of the County of Knox and the City of Knoxville, Tennessee, ATTN: Procurement Manager, PO Box 2505, Knoxville, TN 37901. COIs may be emailed to Procurement@ktnpba.org.
11. **Insurance Agent's Statement and Certification: I have reviewed the above requirements with the contractor named below and have advised the contractor of required coverage.**

Agency Name

Authorizing Signature

12. **Contractor's Statement and Certification: If awarded the contract, I will comply with the contract insurance requirements.**

Contractor's Name

Authorizing Signature

ATTACHMENT E
PBA PROCUREMENT OFFICE
INVITATION FOR BIDS NUMBER 2024.011
AFFIDAVIT OF COMPLIANCE WITH
IRAN DIVESTMENT ACT
TENNESSEE CODE ANNOTATED, SECTION 12-12-106

Comes _____, for and on behalf of
(Printed name of Principal Officer of Company)

_____, (the "Company") and, after being duly authorized by the
(Printed name of Company)
Company so to do, makes oath that:

By submission of this bid, each supplier and each person signing on behalf of any supplier certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each supplier is not on the list created pursuant to the Iran Divestment Act, T.C.A. § 12-12-106.

Signature of Principal Officer

Title of Principal Officer

STATE OF: _____

COUNTY OF: _____

Before me personally appeared _____, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who acknowledged that such person executed the foregoing affidavit for the purposes therein contained.

Witness my hand and seal at office this _____ day of _____, 20____

Signature of Notary Public

My commission expires: _____

(Affix Seal)

ATTACHMENT F
PBA PROCUREMENT OFFICE
INVITATION FOR BIDS NUMBER 2024.011
AFFIDAVIT OF COMPLIANCE WITH
NON-BOYCOTT OF ISRAEL
ACT
TENNESSEE CODE ANNOTATED, SECTION 12-4-119

Comes _____, for and on behalf of
(Printed name of Principal Officer of Company)

_____, (the "Company") and, after being duly authorized by the
(Printed name of Company)
Company so to do, makes oath that:

By submission of this bid, each supplier and each person signing on behalf of any supplier certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each supplier is not currently engaged in, and will not for the duration of the contract engage in, a boycott of Israel as defined by Tennessee Code Annotated § 12-4-119. Each supplier and each person signing on behalf of any supplier further certifies that each supplier is not on the list created pursuant to T.C.A. § 12-4-119. This provision shall not apply to contracts with a total value of less than two hundred fifty thousand dollars (\$250,000) or to contractors with less than ten (10) employees.

Signature of Principal Officer

Title of Principal Officer

STATE OF: _____

COUNTY OF: _____

Before me personally appeared _____, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who acknowledged that such person executed the foregoing affidavit for the purposes therein contained.

Witness my hand and seal at office this _____ day of _____, 20____

Signature of Notary Public

My commission expires: _____

(Affix Seal)

ATTACHMENT G
PBA PROCUREMENT OFFICE
INVITATION FOR BIDS NUMBER 2024.011
TENNESSEE CODE ANNOTATED TITLE 50 EMPLOYER AND EMPLOYEE
CHAPTER 9 DRUG-FREE WORKPLACE PROGRAMS
Current through the 2021 First Extraordinary and the 2021 Regular Sessions

§ 50-9-101

(a) It is the intent of the general assembly to promote drug-free workplaces in order that employers in this state be afforded the opportunity to maximize their levels of productivity, enhance their competitive positions in the marketplace and reach their desired levels of success without experiencing the costs, delays and tragedies associated with work-related accidents resulting from drug or alcohol abuse by employees. It is also the intent of the general assembly that employers obtaining certification as a drug-free workplace under rules promulgated by the bureau should be able to renew that certification on an annual basis without requiring repeated annual training of existing employees; provided, however, the employer certifies on a form prescribed by the bureau that all existing employees have undergone training at least once and have acknowledged annually in writing the existence of the employer's drug-free workplace policy. It is further the intent of the general assembly that drug and alcohol abuse be discouraged and that employees who choose to engage in drug or alcohol abuse face the risk of unemployment and the forfeiture of workers' compensation benefits.

(b) If an employer implements a drug-free workplace program in accordance with this chapter, which includes notice, education and procedural requirements for testing for drugs and alcohol pursuant to rules developed by the division, the covered employer may require the employee to submit to a test for the presence of drugs or alcohol and, if a drug or alcohol is found to be present in the employee's system at a level prescribed by statute or by rule adopted pursuant to this chapter, the employee may be terminated and forfeits eligibility for workers' compensation medical and indemnity benefits. However, a drug-free workplace program must require the covered employer to notify all employees that it is a condition of employment for an employee to refrain from reporting to work or working with the presence of drugs or alcohol in the employee's body and, if an injured employee refuses to submit to a test for drugs or alcohol, the employee forfeits eligibility for workers' compensation medical and indemnity benefits.

Acts 1996, ch. 944, § 50; 1997, ch. 533, § 17; 2016, ch. 1056, § 3.

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§ 50-9-113 State and local government construction contracts

(a) Each employer with five (5) or more employees receiving pay who contracts with the state or any local government to provide construction services or who is awarded a contract to provide construction services or who provides construction services to the state or local government shall submit an affidavit stating that the employer has a drug-free workplace program that complies with this chapter, in effect at the time of the submission of a bid at least to the extent required of governmental entities. Any private employer that certifies compliance with the drug-free workplace program, only to the extent required by this section, shall not receive any reduction in workers' compensation premiums and shall not be entitled to any other benefit provided by compliance with the drug-free workplace program set forth in this chapter. Nothing in this section shall be construed to reduce or diminish the rights or privileges of any private employer who has a drug-free workplace program that fully complies with this chapter. For purposes of compliance with this section, any private employer shall obtain a certificate of compliance with the applicable portions of the Drug-free Workplace Act from the department of labor and workforce development. No local government or state governmental entity shall enter into any contract or award a contract for construction services with an employer who does not comply with this section.

(b) If it is determined that an employer subject to this section has entered into a contract with a local government or state agency and the employer does not have a drug-free workplace pursuant to this section, the employer shall be prohibited from entering into another contract with any local government or state agency until the employer can prove compliance with the drug-free workplace program pursuant to this section. If the same employer again contracts with any local government or state agency and does not have a drug-free workplace program pursuant to this section, then the employer shall be prohibited from entering into another contract with any local government or state agency for not less than three (3) months from the date the violation was discovered and verified and shall be prohibited from entering into another contract until the employer complies with the drug-free workplace program pursuant to this section. If the same employer for a third time contracts with any local government or state agency and does not have a drug-free workplace program pursuant to this section, then the employer shall be prohibited from entering into another contract with any local government or state agency for not less than one (1) year from the date the violation was discovered and verified and shall be prohibited from entering into another contract until the employer complies with the drug-free workplace program pursuant to this section.

(c) A written affidavit by the principal officer of a covered employer provided to a local government at the time the bid or contract is submitted stating that the employer is in compliance with this section shall absolve the local government of all further responsibility under this section and any liability arising from the employer's compliance or failure of compliance with this section.

(d) For the purposes of this section, "employer" does not include any utility or unit of local government. "Employer" includes any private company or corporation.

Acts 2000, ch. 918, §§ 1, 2.

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**ATTACHMENT H
PBA PROCUREMENT OFFICE
INVITATION FOR BIDS NUMBER 2024.011
AFFIDAVIT OF COMPLIANCE WITH
DRUG-FREE WORKPLACE PROGRAM**

STATE OF _____

COUNTY OF _____

The undersigned, principal officer of _____, an employer of five (5) or more employees contracting with The Public Building Authority of the County of Knox and the City of Knoxville, Tennessee to provide construction services, hereby states under oath as follows:

1. The undersigned is a principal officer of _____ (hereinafter referred to as the "Company"), and is duly authorized to execute this Affidavit on behalf of the Company.
2. The Company submits this Affidavit pursuant to T.C.A. § 50-9-113, which requires each employer with no less than five (5) employees receiving pay who contracts with the state or any local government to provide construction services to submit an affidavit stating that such employer has a drug-free workplace program that complies with Title 50, Chapter 9, of the Tennessee Code Annotated.
3. The Company is in compliance with T.C.A. § 50-9-113.

Further, Affiant saith not.

Signature of Principal Officer

Title of Principal Officer

STATE OF: _____

COUNTY OF: _____

Before me personally appeared _____, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who acknowledged that such person executed the foregoing affidavit for the purposes therein contained.

Witness my hand and seal at office this _____ day of _____, 20____

Signature of Notary Public

My commission expires: _____

(Affix Seal)

**ATTACHMENT I
PBA PROCUREMENT OFFICE
INVITATION FOR BIDS NUMBER 2024.011**

A. Federal Transportation Administration Clauses

1. Add the following FTA Terms, Conditions and Required Submittals

a. **Federal Requirements for Contracts Funded by the Federal Transit Administration.**

Note the awarded contract will be partially funded by Federal Transit Administration grants provided through the City of Knoxville to the Public Building Authority. The awarded contractor must agree and comply with the following required federal contract clauses and certifications.

b. **No Government Obligation to Third Parties.**

- i. The Public Building Authority and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the Public Building Authority, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.
- ii. The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

c. **Program Fraud and False or Fraudulent Statements and Related Acts.**

- i. The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 *et seq.* and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.
- ii. The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.
- iii. The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

d. **Access to Records and Reports.**

The following access to records requirements apply to this Contract:

- i. **Record Retention.** The Contractor will retain, and will require its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the contract, including, but not limited to, data, documents, reports, statistics, sub-agreements, leases, subcontracts, arrangements, other third-party agreements of any type, and supporting materials related to those records.

Initials _____

- ii. Retention Period. The Contractor agrees to comply with the record retention requirements in accordance with 2 C.F.R. § 200.333. The Contractor shall maintain all books, records, accounts and reports required under this Contract for a period of at not less than three (3) years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto.
- iii. Access to Records. The Contractor agrees to provide sufficient access to FTA and its contractors to inspect and audit records and information related to performance of this contract as reasonably may be required.
- iv. Access to the Sites of Performance. The Contractor agrees to permit FTA and its contractor's access to the sites of performance under this contract as reasonably may be required.

e. Federal Changes.

The contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between the Public Building Authority and FTA, as they may be amended or promulgated from time to time during the term of this contract. The contractor's failure to so comply shall constitute a material breach of this contract.

f. Termination.

- i. The Public Building Authority may terminate this Agreement at any time, with or without cause, by written notice of termination to the Contractor. If the Public Building Authority terminates this Agreement, and such termination is not a result of a default by the Contractor, the Contractor shall be entitled to receive as its sole and exclusive remedy the following amounts from the Public Building Authority, and the Public Building Authority shall have no further or other obligations to the Contractor: (a) The amount due to the Contractor for work executed through the date of termination, not including any future fees, profits, or other compensation or payments which the Contractor would have been entitled to receive if the Project had not been terminated; and (b) the direct out-of-pocket costs incurred by the Contractor for demobilization of the Project following receipt of the notice of termination, not to exceed the amount reasonably and actually required to demobilize the Project.
- ii. The Public Building Authority may, by written notice of default to the Contractor, terminate the whole or any part of this contract if the Contractor fails to make delivery of the supplies or to perform any of the other material provisions of the contract as determined by the Public Building Authority, or so fails to make progress as to endanger performance of this contract in accordance with its terms, and in either of these two circumstances does not cure such failure within a period of 10 days (or such longer period as the Purchasing Agent may authorize in writing) after receipt of notice from the Purchasing Agent specifying such failure. If the contract is terminated in whole or in part for default, the Public Building Authority may procure, upon such terms and in such manner as the Purchasing Agent may deem appropriate, supplies of services similar to those terminated. If the contract is terminated in whole or in part for default, the Public Building Authority may procure, upon such terms and in such manner as the Purchasing Agent may deem appropriate, supplies of services similar to those terminated.
- iii. If, after notice of termination of this contract under the provisions of this clause, it is determined for any reason that the Contractor was not in default under the provisions of this clause, or that the default was excusable under the provisions of this clause, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to termination for convenience of the Public Building Authority.
- iv. The rights and remedies of the Public Building Authority provided in this clause shall not be exclusive and are in addition to any other right and remedies provided by law or under this contract.

Initials _____

g. Civil Rights Requirements.

The Public Building Authority is an Equal Opportunity Employer. As such, the Public Building Authority agrees to comply with all applicable Federal civil rights laws and implementing regulations. Apart from inconsistent requirements imposed by Federal laws or regulations, the Public Building Authority agrees to comply with the requirements of 49 U.S.C. § 5323(h) (3) by not using any Federal assistance awarded by FTA to support procurements using exclusionary or discriminatory specifications. Under this Agreement, the Contractor shall at all times comply with the following requirements and shall include these requirements in each subcontract entered into as part thereof.

- i. **Nondiscrimination.** In accordance with Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, disability, or age. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.
- ii. **Race, Color, Religion, National Origin, Sex.** In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e et seq., and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60, and Executive Order No. 11246, "Equal Employment Opportunity in Federal Employment," September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. § 2000e note. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, or sex (including sexual orientation and gender identity). Such action shall include, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
- iii. **Age.** In accordance with the Age Discrimination in Employment Act, 29 U.S.C. §§ 621-634, U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
- iv. **Disabilities.** In accordance with section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 et seq., the Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against individuals on the basis of disability. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

h. Disadvantaged Business Enterprise (DBE) (49 CFR Part 26) -

- i. This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, *Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs*. A separate contract goal has not been established for this procurement.
- ii. The prime contractor and subcontractors shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted contract. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the Public Building Authority deems appropriate, which may include, but is not limited to:

Initials _____

- 1) Withholding progress payments;
 - 2) Assessing sanctions;
 - 3) Liquidated damages; and/or
 - 4) Disqualifying the contractor from future bidding as non-responsible. (49 CFR 26.13(b)).
- iii. Each subcontract the contractor signs with a subcontractor must include the assurance in the subparagraph above (see 49 CFR 26.13(b)). The successful bidder/offeror will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.
 - iv. All bidders/proposers are required to submit the **Subcontractor Information Form** below. Additionally, the selected contractor, prior to contract award, must complete and submit the Commitment to Utilize DBE Certification form and subcontractors certified as DBEs through the TDOT Unified Certification Program who are participating in the project must submit the DBE Subcontractor Participation Certification form below.
 - v. The contractor is required to pay **all of its subcontractors** performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work from the Public Building Authority. Delays in payment must be approved in writing by the Public Building Authority. In addition, the contractor may not hold retainage from its subcontractors.
 - vi. The contractor must promptly notify the Public Building Authority, whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of the Public Building Authority.
- i. **Incorporation of Federal Transit Administration (FTA) Terms** - Incorporation of Federal Transit Administration (FTA) Terms - The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any Public Building Authority requests, which would cause the Public Building Authority to be in violation of the FTA terms and conditions.
- j. **Government-Wide Debarment and Suspension.**
 - i. The Contractor shall comply and facilitate compliance with U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 C.F.R. part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 C.F.R. part 180. These provisions apply to each contract at any tier of \$25,000 or more, and to each contract at any tier for a federally required audit (irrespective of the contract amount), and to each contract at any tier that must be approved by an FTA official irrespective of the contract amount. As such, the Contractor shall verify that its principals, affiliates, and subcontractors are eligible to participate in this federally funded contract and are not presently declared by any Federal department or agency to be:
 - 1) Debarred from participation in any federally assisted Award;
 - 2) Suspended from participation in any federally assisted Award;
 - 3) Proposed for debarment from participation in any federally assisted Award;
 - 4) Declared ineligible to participate in any federally assisted Award;

Initials _____

- 5) Voluntarily excluded from participation in any federally assisted Award; or
 - 6) Disqualified from participation in any federally assisted Award.
- ii. By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by the Public Building Authority. If it is later determined by the Public Building Authority that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to the Public Building Authority, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. part 180, subpart C, as supplemented by 2 C.F.R. part 1200, while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

k. Breaches and Dispute Resolution.

1. The Public Building Authority shall have the following rights in the event that the Public Building Authority deems the Contractor guilty of a breach of any term under the Contract.
 - i. The right to take over and complete the work or any part thereof as agency for and at the expense of the Contractor, either directly or through other contractors;
 - ii. The right to cancel this Contract as to any or all of the work yet to be performed;
 - iii. The right to specific performance, an injunction or any other appropriate equitable remedy; and
 - iv. The right to money damages.
2. Inasmuch as the Contractor can be adequately compensated by money damages for any breach of this Contract, which may be committed by the Public Building Authority, the Contractor expressly agrees that no default, act or omission of the Public Building Authority shall constitute a material breach of this Contract, entitling Contractor to cancel or rescind the Contract (unless the Public Building Authority directs Contractor to do so) or to suspend or abandon performance.
3. Substantial failure of the Contractor to complete the Project in accordance with the terms of this Agreement will be a default of this Agreement. In the event of a default, the Public Building Authority will have all remedies in law and equity, including the right to specific performance, without further assistance, and the rights to termination or suspension as provided herein. The Contractor recognizes that in the event of a breach of this Agreement by the Contractor before the Public Building Authority takes action contemplated herein, the Public Building Authority will provide the Contractor with thirty (30) days written notice that the Public Building Authority considers that such a breach has occurred and will provide the Contractor a reasonable period of time to respond and to take necessary corrective action.
4. Disputes arising in the performance of this Contract that are not resolved by agreement of the parties shall be decided in writing by the authorized representative of Public Building Authority's Purchasing Agent. This decision shall be final and conclusive unless within [10] days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the Purchasing Agent. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the Purchasing Agent shall be binding upon the Contractor and the Contractor shall abide by the decision.
5. Performance during Dispute. Unless otherwise directed by the Public Building Authority, Contractor shall continue performance under this Contract while matters in dispute are being resolved.
6. Claims for Damages. Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of its employees, agents or others for whose acts it is legally liable, a claim for damages therefor shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.

Initials _____

7. Remedies. Unless this Contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the Public Building Authority and the Contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State of Tennessee, County of Knox.
8. The duties and obligations imposed by the Contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the Public Building Authority or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

l. Lobbying.

Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.] - Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or 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 contacts 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.

m. Clean Air and Clean Water Act Requirements.

The contractor and their subcontractors awarded contracts exceeding \$150,000 must agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act and the Federal Water Pollution Control Act.

The Contractor agrees:

1. It will not use any violating facilities;
2. It will report the use of facilities placed on or likely to be placed on the U.S. EPA "List of Violating Facilities;"
3. It will report violations of use of prohibited facilities to FTA; and
4. It will comply with the inspection and other requirements of the Clean Air Act, as amended, (42 U.S.C. §§ 7401 – 7671q); and the Federal Water Pollution Control Act as amended, (33 U.S.C. §§ 1251-1387).

n. Energy Conservation Requirements (42 U.S.C. 6321 et seq.; 49 CFR Part 18)

The contractor agrees to comply with mandatory standards and policies relating to energy efficiency, which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

o. Safe Operation of Motor Vehicles

Seat belt use - The Contractor is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company-rented vehicles, or personally operated vehicles.

Initials _____

Distracted driving – The Contractor agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Contractor owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the work performed under this agreement.

p. **Americans with Disabilities Act (42 USC 12101, et seq.) and Section 504 of the Rehabilitation Act of 1973 (29 USC 794; 49 USC 5301(d))**

The Contractor agrees to comply with all applicable requirements of the Americans with Disabilities Act of 1990, as amended, 42 USC §12101, et seq.; section 504 of the Rehabilitation Act of 1973, as amended, 29 USC §794; 49 USC §5301(d); and any implementing requirements FTA may issue. These regulations provide that no handicapped individual, solely by reason of his or her handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity included in or resulting from this Agreement.

1. By submitting and attaching an authorizing signature to the bid the supplier(s) are acknowledging their agreement to comply with these additional FTA clauses.
2. In addition, the supplier(s) must complete and attach the following FTA Certifications.
 - a. Lobbying Certification
 - b. Certification of Primary Participant Regarding Debarment, Suspension, and other Responsibility Matters
 - c. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions
 - d. Subcontractor Information Form

q. **Conformance with ITS National Architecture**

The Contractor shall conform, to the extent applicable, to the National Intelligent Transportation Standards architecture as required by SAFETEA-LU Section 5307(c), 23 U.S.C. Section 512 and as amended by MAP-21 23 U.S.C. § 517(d), note and follow the provisions of FTA Notice, “FTA National Architecture Policy on Transit Projects,” 66 Fed. Reg. 1455 etseq., January 8, 2001, and any other implementing directives FTA may issue at a later date, except to the extent FTA determines otherwise in writing.”

Initials _____

FTA Terms and Conditions

1. **Fly America Requirements (49 U.S.C. § 40118; 41 CFR Part 301-10)** – Transportation of persons or property, by air, between a place in the U.S. and a place outside the U.S., or between places outside the U.S.
2. **Buy America (49 U.S.C. 5323(j); 49 CFR Part 661)** – Applicable for Construction Contracts and Acquisition of goods or rolling stock (valued at \$150,000 or more).
3. **Build America, Buy America Act (41 U.S.C. §§ 8301 - 8305)** – Applicable for Construction Contracts and Acquisition of goods or rolling stock (valued at \$150,000 or more).
4. **Charter Bus Requirements (49 U.S.C. 5323(d); 49 CFR Part 604)** – Applicable for Operational Service Contracts.
5. **School Bus Requirements (49 U.S.C. 5323(F); 49 CFR Part 605)** – Applicable for Operational Service Contracts.
6. **Cargo Preference Requirements (46 U.S.C. 1241; 46 CFR Part 381)** – Applicable to all contracts involving equipment, materials, or commodities which may be transported by ocean vessels.
7. **Seismic Safety Requirements (42 U.S.C. 7701 et seq. 49 CFR Part 41)** – Applicable to all contracts for the construction of new buildings or additions to existing buildings.
8. **Energy Conservation Requirements (42 U.S.C. 6321 et seq.; 49 CFR Part 18)** – The Energy Conservation requirements are applicable to all contracts.
9. **Clean Water Requirements (33 U.S.C. 1251)** - The Clean Water requirements apply if each contract and subcontract which exceeds \$100,000.
10. **Bus Testing (49 U.S.C. 5323(c); 49 CFR Part 665)** – Bus Testing requirements pertain only to the acquisition of rolling stock/Turnkey vehicles intended for revenue service.
11. **Pre-Award and Post Delivery Audit Requirements (49 U.S.C. 5323; 49 CFR Part 663)** – Applicable only to the acquisition of Rolling Stock/Turnkey vehicles intended for revenue service.
12. **Lobbying (31 U.S.C. 1352; 49 CFR Part 19; 49 CFR Part 20)** – The Lobbying requirements apply to Construction/Architectural and Engineering/Acquisition of Rolling Stock/Professional Service Contract/Operational Service Contracts and Turnkey contracts.
13. **Access to Records and Reports (49 U.S.C. 5325; 18 CFR 18.36(i); 49 CFR 633.17)**
14. **Federal Changes (49 CFR Part 18)**
15. **Bonding Requirements** – Contracts or Subcontracts exceeding \$100,000.
16. **Clean Air Act Requirements (42 U.S.C. 7401 et seq; 40 CFR 15.61; 49 CFR Part 18)** – All contracts exceeding \$100,000, including indefinite quantities where the amount is expected to exceed \$100,000 in any year.
17. **Recycled Products/Recovered Materials Requirements (42 U.S.C. 6962; 40 CFR Part 247; Executive Order 12873)** – All contracts for items designated by the EPA, when the purchaser or contractor procures \$10,000 or more of one of these items.
18. **Davis-Bacon and Copeland Anti-Kickback Act Requirements (40 USC 3141, et seq.; 18 USC 874; 29 CFR 3.11 and 5.5(a))** – Construction contracts over \$2000.
19. **Contract Work Hours and Safety Standards Act Requirements (40 USC 3701, et seq.)** – Overtime requirements.
20. **No Government Obligation to Third Parties** – Applicable to all contracts.
21. **Program Fraud and False of Fraudulent Statements and Related Acts (31 U.S.C. 3801 et seq.; 49 CFR Part 31 18 U.S.C. 1001; 49 U.S.C. 5307)** – Applicable to all contracts and purchases.
22. **Termination (49 U.S.C. Part 18; FTA Circular 4220.1F)** – All contracts except contracts with nonprofit organizations and institutions of higher education.
23. **Government-Wide Debarment and Suspension (Non-Procurement) (49 CFR Part 29; Executive Order 12549 & 12689; 31 U.S.C. 6101)**
24. **Privacy Act Requirements (5 U.S.C. 552)** – Applies to all contracts.
25. **Civil Rights Requirements (29 U.S.C. § 623, 42 U.S.C. § 2000; 42 U.S.C. § 6102, 42 U.S.C. § 12112; 42 U.S.C. § 12132, 49 U.S.C. § 5332; 29 CFR Part 1630, 41 CFR Parts 60 et seq.)** – Applies to all contracts.
26. **Breaches and Dispute Resolution (49 CFR Part 18; FTA Circular 4220.1F)**
27. **Patent and Rights in Data Requirements (37 CFR Part 401; 49 CFR Parts 18 and 19)**
28. **Transit Employee Protective Agreements (49 U.S.C. § 5310, § 5311, and § 5333; 29 CFR Part 215)**
29. **Disadvantaged Business Enterprise (DBE) (49 CFR Part 26)**
30. **Incorporation of Federal Transit Administration (FTA) Terms (FTA Circular 4220.1F)**
31. **Veterans Employment Preference (FTA Circular 4220.1F)** – Contractors and sub-contractors shall give hiring preference to the extent practical to veterans.

Initials _____

ATTACHMENT J
PBA PROCUREMENT OFFICE
INVITATION FOR BIDS NUMBER 2024.011

**LOBBYING CERTIFICATION
(APPENDIX A, 49 CFR PART 20)**

Certification for Contracts, Grants, Loans, and Cooperative Agreements (*To be submitted with each bid or offer exceeding \$100,000*):

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

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

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

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

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). 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.

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

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

Signature of Contractor's Authorized Official

Name of Contractor's Authorized Official

Title of Contractor's Authorized Official

Date

**ATTACHMENT K
PBA PROCUREMENT OFFICE
INVITATION FOR BIDS NUMBER 2024.011
CERTIFICATION OF PRIMARY PARTICIPANT REGARDING DEBARMENT,
SUSPENSION AND OTHER RESPONSIBILITY MATTERS**

The Primary Participant/Contractor, certifies to the best of its knowledge and belief, that it and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
2. Have not within a three-year period preceding this bid been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction,- violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (2) of this certification; and
4. Have not within a three-year period preceding this application/bid had one or more public transactions (federal, state or local) terminated for cause or default. If the primary participant (potential third-party contractor) is unable to certify to any of the statements in this certification, the participant shall attach an explanation to this certification.

THE PRIMARY PARTICIPANT/CONTRACTOR _____
CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF THE CONTENTS OF THE
STATEMENTS SUBMITTED ON OR WITH THIS CERTIFICATION AND UNDERSTANDS THAT THE
PROVISIONS OF 31 U.S.C. SECTIONS 3801 ET. SEQ. ARE APPLICABLE THERETO.

Signature of Contractor's Authorized Official

Name of Contractor's Authorized Official

Title of Contractor's Authorized Official

Date