

NATIONAL RAILROAD PASSENGER CORPORATION
SUPPLEMENTARY GENERAL PROVISIONS FOR NONCONSTRUCTION CONTRACTS

Contractor shall comply with and insert the following provisions in all subcontracts issued pursuant to this Contract:

1. **Equal Employment Opportunity.** Contractor shall comply with E.O. 11246, "Equal Employment Opportunity," as amended by E.O. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."
2. **Patent Rights; Rights to Inventions.**
 - (a) If any invention, improvement, or discovery of Contractor or any of its subcontractors is conceived or first actually reduced to practice employing financial assistance provided to the Contractor under this Contract, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, Contractor agrees to notify Amtrak immediately and provide a detailed report. The rights and responsibilities of Amtrak, Contractor and the Federal Government with respect to such invention, improvement, or discovery will be determined in accordance with applicable Federal laws, regulations, policies, and any waiver thereof.
 - (b) If the Contract involves the performance of experimental, developmental, or research work, the rights of the Federal Government and Amtrak shall be in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the Federal Railroad Administration (FRA).
3. **Byrd Anti-Lobbying Amendment.** 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", a copy of which is attached hereto. 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 any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to Amtrak.
4. **Debarment and Suspension.** No contract shall be entered into with parties listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Nonprocurement Programs in accordance with E.O.s 12549 and 12689, "Debarment and Suspension" and 49 CFR part 29. This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than E.O. 12549. Contractor will comply with U.S. DOT regulations, "Governmentwide Debarment and Suspension (Nonprocurement)." If this Contract equals or exceeds the small purchase (simplified acquisition) threshold of \$100,000, Contractor shall execute the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion" attached hereto.
5. **Buy American.** Contractor shall comply with the Buy American Act (41 U.S.C. 10a-d), and the implementing regulations set forth at 48 CFR part 25, except for acquisitions in excess of one million dollars (\$1,000,000), in which case Contractor shall comply with Amtrak's domestic buying requirements found at 49 U.S.C. 24305(f).
6. **Cargo Preference--Use of United States-Flag Vessels.** As required by U.S. DOT, Maritime Administration regulations, "Cargo Preference -- U.S.-Flag Vessels," 46 CFR part 381, if equipment, materials or commodities may be transported by ocean vessel in carrying out the activities funded under this Contract, Contractor agrees:
 - (a) To utilize privately owned United States-flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, materials, or commodities pursuant to this contract to the extent such vessels are available at fair and reasonable rates.
 - (b) To furnish within 20 days following the date of loading for shipments originating within the United States, or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, "On-Board" commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (a) above to Amtrak (through the prime contractor in the case of subcontractor bills-of-lading) and to the Division of National Cargo, Office of Market Development, Maritime Administration, 400 Seventh Street, S.W., Washington, DC 20590, marked with appropriate identification.
7. **Drug-Free Work Place.** Contractor agrees to comply with U.S. DOT regulations, "Governmentwide Requirements for Drug-Free Workplace (Grants)", 49 CFR part 29 for procurements that are expected to equal or exceed the small purchase (simplified acquisition) threshold of \$100,000.

8. **Participation by Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals.** Contractor is encouraged to utilize small business concerns owned and controlled by socially and economically disadvantaged individuals (as that term is defined in 49 CFR part 26) in carrying out activities funded under this Contract.

9. **Record Retention – Submission of Proceedings, Contracts and Other Documents.** During the course of its activities under this Contract and for three years thereafter, Contractor agrees to retain intact and to provide any data, documents, reports, records, contracts, and supporting materials relating to its performance under this contract as FRA may require. Reporting and record-keeping requirements are set forth in 49 CFR part 19.

10. **Audit and Inspection; Inspection by Federal Officials.** Contractor agrees to permit Amtrak, the Secretary of Transportation and Comptroller General of the United States, or their authorized representatives, to inspect all work, materials, payrolls, and other data, and to audit the books, records, and accounts of Contractor and its subcontractors pertaining to Contractor's activities under this Contract. Contractor will take appropriate steps to ensure that the aforementioned materials are available for inspection in order to ensure compliance with this section.

11. **Environmental Protection.** *This section applies if the Contract exceeds \$100,000.* Contractor will conduct work under this Contract, and will require that work that is conducted as a result of this Contract be in compliance with the following provisions, as modified from time to time, all of which are incorporated herein by reference: the Clean Air Act, 42 U.S.C. 7401 et seq., and the Federal Water Pollution Control Act, 33 U.S.C. 1251 et seq., and all regulations issued thereunder. Contractor certifies that no facilities that will be used to perform work under this Contract are listed on the List of Violating Facilities maintained by the Environmental Protection Agency (EPA). Contractor will notify Amtrak as soon as it or any subcontractor receives any communication from the EPA indicating that any facility which will be used to perform work pursuant to this Contract is under consideration to be listed on the EPA's List of Violating Facilities; provided, however, that Contractor's duty of notification hereunder shall extend only to those communications of which it is aware, or should reasonable have been aware. Also, where applicable, Contractor shall comply with the **Wild and Scenic Rivers Act** of 1968 (16 U.S.C. 1271 et seq).

12. **Remedies for Breach.** All subcontracts in excess of the small purchase threshold (currently \$100,000), shall contain contractual provisions or conditions that allow for administrative, contractual, or legal remedies in instances in which a subcontractor violates or breaches the contract terms, and provide for such remedial actions as may be appropriate.

13. **Contract Termination Provisions.** All subcontracts in excess of the small purchase threshold (currently \$100,000), shall contain suitable provisions for termination by Contractor, including the manner by which termination shall be effected and the basis for settlement. In addition, such subcontracts shall describe conditions under which it may be terminated for default as well as conditions where it may be terminated because of circumstances beyond the control of Contractor.

14. **Allowable Costs.** Contractor's expenditures will be reimbursed only if they conform with Federal guidelines or regulations and Federal cost principles as set forth in Federal Acquisition Regulation, 48 CFR Chapter I, Subpart 31.2, "Contracts with Commercial Organizations", which are incorporated herein by reference. If any costs are disallowed, as determined by an audit by Amtrak or the Federal Government, Contractor agrees to reimburse Amtrak for such disallowed costs within sixty (60) days of advice to Contractor of the determination of disallowance.

CERTIFICATION REGARDING LOBBYING

The undersigned 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 any 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 influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance 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 Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Name of Company

Date

By

Title

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION,
INELIGIBILITY AND VOLUNTARY EXCLUSION**

1. The offeror/prospective contractor certifies, by submission of this offer or proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

2. Where the offeror/prospective contractor is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this offer or proposal.

Offeror/Contractor:

Name of Firm

Signature of authorized representative:

Title: _____

Date: _____

*Instructions for this Certification may be found at 49 CFR part 29, App. B.