



SUBURBAN MOBILITY AUTHORITY for REGIONAL TRANSPORTATION

**INVITATION FOR BID
COLOR COPIER / PRINTER**

Prepared by:

SMART
Procurement Department-Buhl Building
535 Griswold Street, Suite 600
Detroit, MI 48226

Return to Attention of:

**Keri J. Bright
Sr. Purchasing Agent**

IFB Control Number: 13-1263
IFB Due Date: 2:00 PM, ET March 19, 2013

VENDOR NAME: _____

REPRESENTATIVE NAME: _____

STREET ADDRESS: _____

CITY, STATE, ZIP: _____

PHONE: _____ FAX _____

EMAIL: _____

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1.00 INTRODUCTION AND STATEMENT OF WORK

1.01 Introduction and SMART Contact Information

This Invitation For Bid (IFB) is being solicited by the Suburban Mobility Authority for Regional Transportation (SMART), a public transportation authority in southeast Michigan that serves more than 10 million passengers annually.

Invitation For Bid (IFB) Title:	Color Copier / Printer
IFB Control Number:	13-1263
Date Advertised:	March 6, 2013
Date Issued:	February 28, 2013
Due Date, Time, and Location of Public Opening:	March 19, 2013 at 2:00 PM, ET
	Procurement Department
	535 Griswold St., Suite 600, Detroit, MI 48226
Purchasing Agent:	Keri J. Bright
E-mail Address:	kbright@smarbus.org
Telephone Number:	(313) 223-2144
Procurement Manager:	Charles F. Couwlier
Project Manager:	Andrew Dodt, Graphics Production Specialist

1.02 Scope of Work and Objective

The Suburban Mobility Authority for Regional Transportation (SMART), the public transportation agency which services the metropolitan Detroit suburbs, is soliciting bids for color copier / printer as specified below in sections 1.03-1.05 by the Marketing Department, located in the downtown Detroit SMART offices.

Furnish all labor, materials, insurance, permits, off-site disposal, equipment and supervision, and any and all necessities and incidentals required to perform the following work:

Remove existing Color Copier and dispose of off-site. Provide and install new color copier in accordance with the Specifications herein.

1.03 Technical Specifications

Provide and install new color copier in accordance with the following salient features:

- a) Tri-Fold
- b) Bi-Fold
- c) Multi-position Stapling
- d) Capable of printing up to 140# Index paper
- e) Capable of printing glossy and or semi-glossy card stock and text papers

- f) Job Programming – computer and copying projects (includes inserting card stock and/or colored paper)
- g) Large tray that holds 2,500 – 8.5" x 11" sheets
- h) Three (3) additional trays for 8.5" x 11", 8.5" x 14", and 11" x 17" sheet
- i) Scanning capability
- j) Print at least 60 pages per minute
- k) 100 maximum sheet stapling
- l) Three-hole punch
- m) Hardware and software needed to attach to **Active Directory**
- n) Network card standard 10/100mb Ethernet Network Interface Card using TCP/IP Communication Protocol
- o) The following software included in purchase price: Scan/Image, File Management and OCR Software
- p) Compatible with **Windows Server 2008 R2** and **Mac OSX 10.5.8**
- q) Optional Profiler Suite to calibrate color
- r) Space Available for the copier is 4' x 10'
- s) Maintenance / Supply contact billed monthly at cost per copy, 3 year with 2 one-year extensions

1.04 Location

SMART Administrative Offices - Marketing & Communications Department
 Buhl Building
 535 Griswold Street, Suite 600
 Detroit, MI 48226

The space available for the copier is 4' x 10'

1.05 Estimated Annual Usage

The estimated annual usage is listed below but quantities are for bidding purposes only and not a guarantee. Actual quantities may be higher or lower.

Black & White	300,000 copies per year
Color	250,000 copies per year

1.06 Trade - In

The current copier is located in SMART's Marketing and Communications Department and is a Konica-Minolta bizhubPRO C6500. SMART is seeking for the awarded vendor to provide a trade-in value on the pricing table in Section 3.01.

1.07 Requirement Matrix

Bidders are to complete the following matrix on whether the proposed unit meets the requirements listed in Section 1.03.

Requirement Matrix

		Does the proposed unit meet the specification?	
		Yes	No
Color Copier/Printer Requirements:			
a)	Tri-fold		
b)	Bi-fold		
c)	Multi-position Stapling		
d)	Capable of printing up to 140# Index paper		
e)	Capable of printing glossy and or semi-glossy card stock and text papers		
f)	Job Programming - computer and copying projects (including inserting card stock and/or colored paper)		
g)	Large Tray that holds 2,500 - 8.5" X 11" sheets		
h)	Three additional trays for 8.5" X 11", 8.5" X 14" and 11" X 17" sheets		
i)	Scanning capability		
j)	Print at least 60 pages per minute		
k)	100 maximum sheet stapling		
l)	Three-hole punch		
m)	Hardware and software needed to attach to Active Directory		
n)	Network card standard 10/100mb Ethernet Network Interface Card using TCP/IP Communication Protocol		
o)	The following software included in purchase price: Scan/Image, File Management and OCR software		
p)	Compatible with Windows Server 2008 R2 and Mac OSX 10.5.8		
q)	Optional Profiler Suite to calibrate color		
r)	Space available for the copier is 4' X 10'		
s)	Maintenance/Supply contract billed monthly at cost per copy, 3 year with 2 one-year extensions		

2.00 SOLICITATION PROCEDURES

2.01 Solicitation Schedule

Pre-Bid Conference (if applicable) (Section 2.02):	NA
Requests for Approved Equals (Section 2.04):	10:00 AM, ET March 7, 2013
Bid Due Date, Time and Public Opening (Section 1.01):	2:00 PM, ET March 19, 2013

2.02 Pre-Bid Conference

A Pre-Bid Conference (including a site visit if applicable) will be held on the above date and time at . The project will be discussed at the meeting; however, no statements understood to be modifications to the IFB are valid or binding unless issued as addenda. Attendance is encouraged, but is not mandatory.

A Pre-Bid Conference will not be held.

A Site Visit can be scheduled by contacting the Project Manager, at . The Project Manager or designee is not authorized to discuss specifics of the IFB. Any representations made during the site visit are not binding on SMART, and should not be used in the preparation of the IFB response. No addenda will be issued as a result of this site visit. Separate site visits will not be held if there is a scheduled Pre-Bid conference.

2.03 Offeror Communications

During the solicitation process, all forms of contact and correspondence in regard to any aspect of this solicitation shall only be with the Purchasing Agent identified in Section 1.01. Further, this Offer must be made based upon an independent price determination, and Offeror shall not have communications with others for the purpose of restricting competition. Any alleged breach of this Section may, at SMART's sole discretion, result in the rejection of the breaching Offeror's Bid.

2.04 Request for Approved Equals

Whenever brand, manufacturer, or product names are used, they are included for the purpose of establishing a description of the item. This inclusion is not advocating or prescribing the use of a particular brand, item, or product. Whenever such names appear, request for approved equal substitutions will be considered. Vendor's request for approved equals shall include all aspects of product which would document the products salient features.

Requests for substitutions, information, clarification, or questions must be submitted by the date and time listed in Section 2.01, "Solicitation Schedule". For every approved equal requested, the bidder shall demonstrate the quality of its product to SMART and shall furnish sufficient technical data, test results, or other information that SMART shall require, enabling SMART to determine whether the bidder's product is or is not equal to that specified.

2.05 Addenda to the IFB

SMART reserves the right to amend the IFB at any time prior to the Bid Due Date. Any such amendments will be issued as addenda to the IFB, and will become part of the IFB. Addenda will be posted exclusively on the MITN website, www.mitn.info. All Offerors shall acknowledge the receipt of all addenda in their Bid. Failure to do so may result in the rejection of an Offeror's Bid, at SMART's sole discretion.

2.06 Bid Content Requirements And Bid Submission

Offerors must precisely follow all of the instructions of the IFB. All Bids must include the entire IFB document. Failure to conform to all requirements may result, at SMART's sole discretion, in rejection of an Offeror's Bid. **Each package shall contain one (1) original, signed document, and one (1) copy.**

2.07 Modification or Withdrawal of Bids

A modification of a bid already received will be accepted by SMART only if the modification is received prior to the bid Due Date, is requested by SMART, or is made in response to a request for revised bid. All modifications shall be made in writing and executed and submitted in the same form and manner as the original bids.

An offeror may withdraw a bid prior to the bid Due Date by submitting to SMART a written request for withdrawal executed by the offeror's authorized representative. The withdrawal of a bid does not prejudice the right of an offeror to submit another bid within the time set for receipt of bids.

2.08 Bid Evaluation

Bids will be evaluated and selected using the criterion and processes explained herein. In addition to disqualifying proposers and/or Bids based upon this process, SMART may, in its sole discretion, reject any or all Bids or offerors for any reason. Additionally, offerors are hereby on notice that the lowest dollar cost bidder may not always be awarded a contract. Any and all Deviations, Clarifications, reservations, and additional or contradictory terms included in a bid may result in its rejection, at SMART's sole discretion. Further, SMART reserves the right to waive minor defects or irregularities in any Bid.

2.09 Qualification Requirements

Bids are first evaluated, as a threshold requirement to conduct business with SMART, to determine the responsibility of Offerors. **If it is found that an offeror does not meet these requirements, that offeror is deemed non-responsible and their Bid will be excluded from consideration for Bid award.** This determination is made in the sole discretion of SMART. Responsibility requirements are as follows:

- A. Sufficient financial strength and resources and capability to finance the work to be performed and complete the Contract in a satisfactory manner. This requires Offeror's financial statements prepared in accordance with United States Generally Accepted Accounting Principles (GAAP) and audited by an independent certified public accountant.
- B. Evidence that the human and physical resources of the Offeror are sufficient to perform the Contract as specified and assure delivery of all equipment and/ or services within the time specified in the Contract. Examples of ways to demonstrate this are as follows:
 1. Evidence of sufficient personnel staffing levels with sufficient skills, training, expertise, to complete the Contract as required and satisfy any circumstances that may arise during the Contract;
 2. Evidence of sufficient equipment to complete the Contract as required and satisfy any circumstances that may arise during the Contract.
- C. Evidence of satisfactory performance and integrity on past and current contracts. Examples of ways to demonstrate this are as follows:
 1. References from past and current clients;
 2. Awards and accolades based upon similar past and current projects;

3. Prior contractual successes with SMART.
- D. Compliance with all Equal Employment Opportunity laws and regulations. This may only be evidenced by proper completion of Form 3.06, "EEO / Affirmative Action Compliance".
- E. Federal Disadvantaged Business Enterprise requirements. This may only be evidenced by proper completion of Form 3.11, "Disadvantaged Business Enterprises".

2.10 Determination of Low Offer

If a Bid has been determined to meet all Qualification Requirements set forth in Section 2.09, conforms to the Scope of Work set forth in Article 1.00, and is not otherwise rejected pursuant to IFB terms, it is then evaluated based upon pricing. Based upon the terms, conditions, and limitations set forth within the IFB, the lowest priced conforming bid from an eligible Offeror will be the selected bid. If the IFB is for multiple line items, SMART reserves the right to award contracts for individual line items if it is in the best interest of SMART to do so.

2.11 Notice of Intent to Award, and Contract Award

Once SMART has determined the Offeror to which it intends to award the Contract, a Notice of Intent to Award letter will be sent to that Offeror requesting all Required Submissions, which are listed in Section 5.00, "Required Submissions for Selected Vendor(s) After Notice of Intent to Award". Failure to submit satisfactory documents within ten (10) business days may result, at SMART's sole discretion, in the contract being awarded to an alternative offeror. These documents must be accepted prior to initiation of work under the Contract. The Notice of Intent to Award does not bind SMART, and is not an acceptance of the Offer.

The acceptance of an Offer for award, if made, shall be evidenced only by a fully executed Offer and Award Form, Form 3.03, delivered in person, by mail, or electronically to the Offeror whose Offer is accepted. No other act by SMART shall evidence acceptance of an Offer. Such notice shall obligate said Offeror to commence performance under the Contract.

2.12 Protests

Interested parties, as defined by FTA Circular 4220.1(F), that believe they have been aggrieved by a solicitation or the award of any resulting contract may file a written notice of protest with the General Manager of SMART. This must be via certified mail, with a copy served upon SMART's General Counsel in the same manner. The General Manager or their designee shall review and determine the merits of any such protest. The General Manager may, at their sole discretion, schedule a hearing on the protest and/or receive evidence or legal argument from any interested party, but shall not be bound by the rules of evidence nor formal procedure. The General Manager shall issue their conclusion to the protesting party in writing via certified mail, and shall also advise the SMART Board of Directors.

Protests addressing the adequacy of the solicitation process, and all solicitation documents, must be received by the General Manager no later than five (5) business days before the Bid Due Date (See Section 1.01). Notice of protest of the award of a solicitation must be received by the General Manager no more than five (5) business days after the SMART Board of Directors has authorized the General Manager to award a contract for that solicitation. Failure to adhere to these time limitations will result in the protested issue(s) being waived by all parties.

All determinations made by the General Manager are final. Review of protests and the disposition thereof filed with the FTA are governed by FTA Circular 4220.1(F), as amended. All protests shall be made in accordance with any and all applicable laws, regulations and ordinances.

3.00 REQUIRED FORMS AND SUBMISSIONS

Forms 3.01-3.13 must be completed and included in the Offeror's Response to the IFB, even though some may not seem to apply to this solicitation. Failure to complete any of these forms may result, at SMART's sole discretion, in the rejection of that Bid.

Article 5.00, *Required Submissions for Selected Vendor after Notice of Intent to Award*, details all submissions the successful Offeror must produce before being awarded the Contract. When SMART has chosen an Offeror to which it intends to award the Contract, a Notice of Intent to Award letter, see Section 2.11, will be sent to the recommended vendor and will require all submissions prior to the award of the Contract.

3.01 Pricing Schedule

The Offeror hereby offers to furnish to SMART all goods and/or services at the prices as proposed below, pursuant to all requirements, terms, and conditions as stated in the IFB and response.

Furnish all labor, materials, insurance, permits, off-site disposal, equipment and supervision, and any and all necessities and incidentals required to perform the following work:

Remove existing Color Copier and dispose of off-site. Provide and install new color copier in accordance with the Specifications herein.

Rates provided must be inclusive of all costs and fees, including but not limited to those fees imposed by Federal, state, and local governments. **No additional fees will be accepted.**

Make / Model	Unit Cost	Less Trade In	Total Net Price w/Trade

	Cost Per Copy Black & White	Cost Per Copy Color
Maintenance & Supplies		

Size of Unit	
--------------	--

Days to Install New Unit After Notice of Award	
--	--

NAME OF OFFEROR: _____

3.02 Acknowledgement of Addenda

Addenda are published on the Michigan Intergovernmental Trade Network website, www.mitn.info. Failure to acknowledge all addenda may result in rejection of any such Bid, at SMART's sole discretion.

The Offeror acknowledges receipt of the following addenda. **If the IFB did not have any addenda, please submit this form filled out as "NOT APPLICABLE".**

Addendum Number _____, Dated _____

Addendum Number _____, Dated _____

Addendum Number _____, Dated _____

Addendum Number _____, Dated _____

Name of Offeror: _____

Signature Of Offeror's Authorized Official: _____

Name And Title of Offeror's Authorized Official: _____

3.03 Offer and Award

By executing below, the Offeror hereby offers to furnish equipment and services as proposed, pursuant to all requirements, terms, and conditions as stated in the IFB and response, and incorporated in SMART's Invitation For Bid No. 13-1263. Offeror stipulates that all terms of the Contract are negotiated, and that the consideration for this Contract is real and not merely a recital. This Contract is valid and enforceable with electronic, facsimile, and mechanically reproduced signatures, and if separately countersigned. This Offer shall remain open and valid for 120 days from the Bid Due Date.

Offer: Name of Offeror: _____
Signature of Offeror's Authorized Official: _____
Name and Title of Offeror's Authorized Official: _____
Date: _____

By executing below, SMART accepts the Offer as indicated above.

Award: _____
Name and Title of SMART Official

Signature Date

3.04 Request for Approved Equals

This form must be used to request an approval of items equal to items with specified brand names. This form must be submitted by the Request for Approved Equal Deadline, noted in Section 2.01. Each request must be submitted on a separate form. Multiple requests on the same form will not be answered. Attach additional pages if necessary. **If Offeror has no Requests for Clarification, please submit this form filled out as "NOT APPLICABLE".**

IFB Control Number: 13-1263

Request Number: _____

Request for Approved Equal Regarding IFB Section: _____

Approved Equal:

Reason/Rationale for Request:

NAME OF OFFEROR: _____

SMART Response:

3.05 Compliance with Laws and Regulations

By signing below, Offeror certifies compliance with all applicable Federal, state, county, and local laws, regulations, ordinances, and codes in the performance of the Contract.

Additional Contract terms and conditions required by the Federal Transit Administration are located on the SMART Federal Requirements General Conditions webpage, which is located at <http://www.smartbus.org/Documents/federalrequirements.pdf> , and are hereby incorporated into the Contract by reference.

Additionally, Contractor certifies compliance with all FTA terms, including but not limited to FTA Circular 4220.1(F), as amended, which are hereby incorporated. Contractor further certifies compliance with all changes to the aforementioned terms, laws, regulations, ordinances, and codes throughout the term of the Contract.

Finally, Offeror shall determine whether any or all of the aforementioned requirements apply to any or all subcontractors, and certifies compliance by any affected subcontractors.

Offeror hereby certifies compliance with all laws and regulations in the performance of this Contract, and further affirms that Offeror was able to review the additional terms and conditions located online and understands that those terms and conditions are incorporated into the Contract by reference.

Name of Offeror: _____

Signature of Offeror's Authorized Official: _____

Name and Title of Offeror's Authorized Official: _____

Date: _____

3.06 EEO / Affirmative Action Compliance

SMART only conducts business with Offerors who are Equal Opportunity Employers. Offerors must complete this form regarding compliance. Offerors must comply with SMART's nondiscrimination requirements as set forth in Sections 4.07, "Nondiscrimination", and 6.24, "Civil Rights Requirements".

Additionally, certain contractors that are awardees of federally-funded contracts are required to file affirmative action plans with government agencies as set forth in Executive Order 11246 and its implementing regulations, 41 C.F.R. Chapter 60. To assist SMART in determining whether Offeror is required to have such a plan on file, please answer the following questions:

1. Does Offeror employ over fifty (50) employees? ___ Yes ___ No

2. Has Offeror completed in excess of \$1,000,000 in federally-funded contracts in the past year? ___ Yes ___ No

If Offeror answered "Yes" to both questions, please answer the following question:

1. Which government agency currently has Offeror's Affirmative Action Plan on file:

Offeror hereby affirms compliance with all Equal Employment and applicable Affirmative Action requirements as required by law and as set forth herein.

Name of Offeror: _____

Signature of Offeror's Authorized Official: _____

Name and Title of Offeror's Authorized Official: _____

Date: _____

Should you have any questions or concerns regarding the completion of this form, or compliance provisions set forth herein, please contact:

Michael Wavra, EEO/ DBE / D&A Compliance Officer
SMART
Buhl Building, Suite 600
535 Griswold
Detroit, MI 48226

Phone: (313) 223-2188

Fax: (248) 244-9231

MWavra@smartbus.org

3.07 Debarment and Suspension Certification

Certification of Primary Participation Regarding Debarment, Suspension and Other Responsibility Matters

The Primary Participant (applicant for a FTA grant, or potential contractor for a major third party contract), _____ certifies to the best of its knowledge and belief that it and its principals:

1. This contract is a covered transaction for purposes of 49 CFR Part 29. As such, the contractor is required to verify that none of the contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.
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 two (2) of this certification; and
4. Have not within a three year period preceding this bid had one or more public transactions (federal, state or local) terminated for cause or default.

If the Primary Participant (applicant for a FTA grant or 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 certification in this clause is a material representation of fact relied upon by **SMART**. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to **SMART**, 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 49 CFR 29, Subpart C 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.

Signature of Offeror's Authorized Official: _____

Name and Title of Offeror's Authorized Official: _____

Date: _____

3.08 'Buy America' Certification – Omitted by Choice

3.09 Lobbying Certification – Omitted by Choice

3.10 Conflict of Interest Certification

Conflict of Interest Certification

No employee, officer or member of the Board of Directors of SMART shall solicit or be a party, directly or indirectly, to any contract between him/herself and any firm of which he/she is a partner, member or employee. Kinship shall extend to all parents, children, grandparents, grandchildren, uncles, aunts, first cousins, nephews or nieces whether related by marriage or blood.

The contractor shall indicate below the names and kinship between the officers and/or principal beneficiaries of the firm bidding on this solicitation and any SMART employee, officer or board member who may exercise any discretion over the letting, evaluating, awarding or administering of this solicitation and resulting contract:

PLEASE INDICATE ANY RELATIONSHIPS BELOW. **IF NONE EXIST, please submit this form filled out as "NONE EXIST".**

Name _____	Kinship _____
_____	_____
_____	_____
_____	_____

Name of Offeror: _____

Signature of Offeror's Authorized Official: _____

Name and Title of Offeror's Authorized Official: _____

Date: _____

3.11 Disadvantaged Business Enterprise (DBE)

Program Overview

In accordance with 49 CFR Part 26, and as further set forth in Contract Section 6.28, "Disadvantaged Business Enterprise", as the recipient of federal funds, SMART sets an overall goal annually for DBE participation in contracts financed with federal funds. For professional services, construction, and non-construction contracts awarded during the federal government fiscal year 2013, SMART has proposed an overall DBE goal of 6.5%.

For federally funded contracts, SMART intends to meet the overall DBE goal by setting specific DBE goals on a contract-by-contract basis. Contract goals will be based upon the actual required types of work and the availability of DBEs to perform the required types of work. Specific contract goals will be set so that they will cumulatively result in meeting the portion of SMART's overall goal that it projects it will not be able to meet through race-neutral means. Therefore, a DBE goal for a particular contract may be more or less than the annual overall DBE goal.

For additional information and to locate certified DBE vendors, please see SMART's DBE program website at <http://www.smartbus.org/Smart/SMART+Business/Office+of+DBE-EEO/>.

DBE Goal for This Contract

The Suburban Mobility Authority for Regional Transportation (SMART) has set a goal of **0%** percent for participation of Disadvantaged Business Enterprises (DBEs) in this contract.

Application of DBE Goal to Contract Value

The DBE contract goal is applicable to the full contract value, including any contract change orders or amendments. A DBE goal is also applicable during the entire term of the contract, including any extension periods.

Requirements to Meet DBE Goal

A firm meets a DBE goal by having actual DBE participation equaling or exceeding the percentage of the contract amount specified in the goal established for the solicitation, or by providing backup documentation that good faith efforts have been made to meet the established goal for this contract.

If a Bid is submitted with DBE participation at a percentage lower than the goal set for the contract, then the Bid must include sufficient written documentation of the "good faith efforts" the proposer made to meet the goal. 49 CFR 26.53(c) provides that SMART cannot commit to contracting with a business that has not provided "complete and accurate and [adequate documentation] of the proposer's good faith efforts" to meet a DBE goal. **"Good faith efforts" must be made before the Bid Deadline.**

Payment

As set forth in Contract Sections 6.28(b) "Disadvantaged Business Enterprise" and 4.08 "Payment and Retainage", Contractor must ensure prompt payment for work completed by Disadvantaged Business Enterprises.

3.11 Disadvantaged Business Enterprise, Continued (PAGE 2)

OFFEROR RESPONSE

Indicate your proposed percentage level of DBE subcontracting participation for this contract: _____%

Describe the responsibilities of each DBE participant. (Attach additional sheets, if necessary) To be counted towards the DBE goal, a firm must be certified by the date of contract award for this solicitation. Firms which have applied for certification, but have not yet completed the certification process, will be evaluated on a case-by-case basis. **Note: To count towards the stated goal, a firm must be certified as a DBE in the Michigan Unified Certification Program (MUCP).**

IFB CONTROL NUMBER/ TITLE: _____

Name of Offeror/Vendor: _____

Proposed DBE Vendor #1: _____ **Contact:** _____

Address: _____ **Phone #:** _____

Summary of Participation: _____

Proposed % of subcontracting participation and/or proposed contract amount: _____

Offeror hereby certifies compliance with the goals and requirements of the Disadvantaged Business Enterprise section:

Name of Offeror: _____

Signature of Offeror's Authorized Official: _____

Name and Title of Offeror's Authorized Official: _____

Date: _____

INFORMATION TO BE PROVIDED BY SUCCESSFUL OFFEROR AT CONTRACT CLOSEOUT

Final Obligated dollar amount of DBE participation: _____

Final % of DBE subcontracting participation _____

Date project certified complete _____

Date final Payment issued _____

Invoice/ Check# _____

3.12 Davis Bacon Act / Michigan Prevailing Wage Act - Omitted by Choice

3.13 Drug and Alcohol Testing Program – Omitted by Choice

4.00 GENERAL CONTRACTUAL PROVISIONS

This Article contains terms and conditions of the Contract.

4.01 Contract, Contract Documents, and Conflicts

The documents (including portions of the IFB), and materials incorporated therein, listed below constitute the complete Contract between SMART and the Offeror. This Contract contains the entire agreement of the parties, and supersedes all prior negotiations, agreements, conversations, communications, and any other understandings with respect hereto.

The Contract consists of:

1. Amendments, if applicable
2. Best and Final Offer, if applicable
3. Addenda, if applicable
4. Introduction and Statement of Work (Article 1.0)
5. General Contractual Provisions (Article 4.0)
6. Additional Contractual Provisions (Article 6.0)
7. All other Articles and Sections of the IFB, as issued
8. Offeror Bid

If any conflict among these documents arises, the order of precedence shall be as listed above.

4.02 Amendments

Amendments to this Contract are valid only if in writing and signed by the SMART Procurement Manager and an authorized representative of the Contractor. Notwithstanding, no amendments to this Contract are valid that are in violation of applicable laws, regulations, or SMART Board Policy.

4.03 Change Orders

SMART reserves the right to require alterations in, additions to and deductions from the work initially contemplated in the formation of the Contract without rendering void the Contract. All work shall be described in a written Change Order signed by the SMART Procurement Manager. The contractor shall submit a detailed technical Bid for the amended requirements within 30 days if necessary, as determined by SMART. If the Contractor determines that any pricing changes will result from the Change Order, it shall be treated as a request for an amended pricing schedule and Contractor shall not proceed with the modified work until authorized by SMART. Amended pricing information shall be submitted with all backup documentation within 30 days. The proposed technical Bid and, if applicable, pricing schedule, shall be accepted or modified by negotiation. Disagreements arising under this Section that cannot be resolved by negotiation may result, at SMART's sole discretion, in a Termination for Default (See Section 4.13) of the Contract. SMART may alternatively elect, at its sole discretion, to revert to the original requirements of the Contract.

4.04 IFB and Bid Omissions

The Contractor shall have the responsibility of supplying all parts and services required to make the product complete and ready for service, even though such details may not be specifically set forth in the IFB or Bid.

4.05 Governing Law and Parties; Venue and Disputes

This Contract and all related disputes shall be interpreted in accordance with the laws of the State of Michigan, except those which would direct the application of the laws of another jurisdiction. All disputes arising under this Contract shall be decided by arbitration if the parties mutually agree, or in a court in the State of Michigan of competent jurisdiction.

4.06 Nondiscrimination

In accordance with the Title VI of the Civil Rights Act of 1964, section 303 of the Age Discrimination Act of 1975, section 202 of the Americans with Disabilities Act of 1990, 49 U.S.C. section 5332, the Michigan Elliot-Larsen Civil Rights Act, MCLA 37.2101 *et seq.*, and SMART policy, the Offeror agrees that it will not discriminate based upon race, color, creed, national origin, sex, age, disability, height, weight, familial status, marital status, or sexual orientation. In addition, the Offeror agrees to comply with applicable Federal regulations as further set forth in Section 6.24.

4.07 Price Adjustment for Regulatory Changes

If price adjustment is required for changes that are mandatory as a result of legislation or regulations that are promulgated and become effective after the Due Date of the Contract, the adjustment shall be negotiated between SMART and the Contractor. Failure to successfully negotiate any adjustment may result, at SMART's sole discretion, in Termination for Default, Section 4.13, of the Contract.

4.08 Payment and Retainage

Subject to the terms of the Contract, SMART shall pay and the Contractor shall accept the amounts set forth in the price schedule as full compensation for all costs and expenses of completing the Work in accordance with the Contract, including but not limited to all labor and material required, overhead, expenses, storage and shipping, risks and obligations, taxes (as applicable), fees and profit, and any unforeseen costs. SMART shall make payment at the amount specified herein within **thirty (30)** calendar days after receipt of a proper invoice.

Contractor shall pay all subcontractors performing work under this Contract within **thirty (30)** days of receipt of a proper invoice for work performed satisfactorily. Contractor shall not withhold payment due to subcontractors that is being held by SMART as retainage.

Payment Retainage – For all progress payment contracts, Contractor shall be paid ninety (90) percent of the amount earned under the Contract and pursuant to the provisions set forth herein. SMART shall retain ten (10) percent to ensure faithful performance of the Contract, which shall be due as part of SMART's final payment under the Contract. All such invoices shall clearly set forth (a) the invoice amount, (b) the amount retained for that invoice, (c) the total amount billed toward the Contract, and (d) the total amount retained by SMART against the Contract.

4.09 Cancellation of Procurement

SMART reserves the right to cancel this solicitation at any time before the Contract is fully executed, for any reason, and shall thereby incur no liability to any offeror or prospective offeror.

4.10 Indemnification

The Contractor shall, to the extent permitted by law protect, indemnify and hold SMART, its Board of Directors, officers, employees and agents, and consultants, harmless from any and all liabilities, damages, claims, demands, liens, encumbrances, judgments, awards, losses, costs, expenses, and suits, actions or proceedings, including expenses, costs, and attorneys fees, in the defense, settlement or satisfaction thereof for any injury, death, loss or damage to persons or

GENERAL CONTRACTUAL PROVISIONS

property of any kind whatsoever arising out of or resulting from the negligent acts, errors, or omissions of the Contractor, including its officers, employees, servants, agents, subcontractors and suppliers. At SMART's sole discretion, the Contractor shall undertake at its own expense the defense of any such suit, action, or proceeding. The Contractor shall promptly notify SMART of the notice or assertion of any such suit, action, or proceeding. SMART will endeavor to furnish all reasonable assistance necessary for defending any such suit, action, or proceeding, and shall be repaid all reasonable costs incurred in doing so. SMART maintains the right to select and pay for its own counsel.

4.11 Records

The Contractor shall retain records, including but not limited to, all data, documents, reports, records, and supporting materials relating to the project for whichever of the following events occurs **later**: 1. Six (6) years from the termination of the Contract; 2. The resolution of any litigation or settlement of any claims arising out of this Contract; or 3. The resolution of any exception to costs and expenses taken by SMART, the U.S. Department of Transportation, Comptroller General of the United States, or the State of Michigan.

SMART or its designee may perform audits of the Contractor, and, if applicable, all tiers of subcontractors, of financial information related to this Contract. The Contractor agrees to make these records, including but not limited to bank statements, general ledger, payroll records, and accounts receivable ledgers, available for review in a timely manner when requested by SMART. SMART also requires annual financial statements including balance sheets, income statements, and statements of cash flows. Contractor additionally agrees to provide the FTA, Comptroller General of the United States, the Secretary of the U.S. Department of Transportation, or any of their designees, access to any books, documents, papers, and records of the Contractor which are pertinent to or relate in any way to the Contractor's performance of this Contract for the purpose of making audits, excerpts, and transcriptions, or when conducting an audit and/or inspection.

In the event of a sole source Contract, single responsive offer, Contract modification, Change Order, or competitive negotiated procurement, SMART and the U.S. Department of Transportation, or their designees, shall have the right to examine all books, records, documents, and other costs and pricing data related to the Contract price. The right of examination shall extend to all documents necessary for adequate evaluation of the cost or pricing data.

The requirements of this Section are independent and in addition to those in Section 6.11, "Access to Records and Reports".

4.12 Termination for Convenience

SMART may terminate this contract, in whole or in part, at any time by notice, in writing and with at least fifteen (15) days advance notice, to the Contractor when it is in SMART's best interest. The Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to SMART to be paid to the Contractor. If the Contractor has any property in its possession belonging to SMART, the Contractor will dispose of it in the manner SMART directs.

4.13 Termination for Default

SMART may terminate this Contract, in whole or in part, by written notice of default if the Contractor breaches any term or condition of this Contract, or fails to perform the work in any aspect required within the IFB. This right to terminate may be exercised if the Contractor fails to cure all defaults listed within the notice of default within fifteen (15) days of the notice of default. The notice shall be in writing and signed by the Procurement Manager, and is effective on the

date it is mailed to the Contractor. SMART shall be liable only for those services authorized and rendered, and/or goods received, before the effective date of termination. If the Contractor has any property in its possession belonging to SMART, the Contractor will dispose of it in the manner SMART directs.

4.14 SMART's Right to Do Work

If the Contract is terminated for default in whole or in part, as set forth in Section 4.13, Termination for Default, due to poor workmanship, deficient work, or incomplete work, SMART may, without prejudice to any other remedy it may have, repair or complete said work, and may deduct the cost thereof from payment then or thereafter due to the Contractor.

In such case, the Authority shall issue a Change Order deducting from payment then or thereafter due the Contractor the cost of correcting such work, including compensation for labor and/or any contracted services required to make corrections. If payment then or thereafter due to the Contractor is not sufficient to cover such amount, the Contractor shall pay the difference to the Authority within thirty (30) days of receiving an invoice from SMART.

4.15 Confidentiality of Bids

Access to all documents in SMART's possession is governed by the Michigan Freedom of Information Act (FOIA). SMART will endeavor to not disclose any information it believes to be exempt under the FOIA, but does not guarantee any such non-disclosure.

4.16 Succession, Assignment, and Subcontracting

This Contract will be binding on the parties, their successors, and assigns, as well as all of Contractor's subcontractors of every tier. Contractor may not assign or subcontract its rights or obligations under the Contract without prior written permission of SMART. Names and addresses of all approved subcontractors must be provided to SMART and kept current throughout Contract performance.

4.17 Survivability and Severability

Contractor's obligations herein shall survive the nominal expiration of Contract obligations, and SMART may obtain any remedy under law, Contractor, or equity to enforce the obligations of the Contractor that survive the manufacturing, warranty, final payment, and all other Contract periods. If any provision of this Contract is deemed unenforceable, then the remainder of this Contract shall remain enforceable to the extent permitted by law.

4.18 Waiver

The failure by SMART to require performance of any provision shall not affect SMART's right to require performance at any time thereafter, nor shall SMART's waiver of any breach or default of this Contract constitute a waiver of any subsequent breach or default or a waiver of the provision itself.

4.19 Incorporation of IFB Document

Offeror's bid shall include all terms, conditions, explanations, work, etc. in this IFB document. If the Offeror fails to return portions of the solicitation with their bid, those portions are incorporated by reference.

4.20 Warranty

The Vendor warrants that all materials and equipment furnished under this Contract will be new unless otherwise specified, and that all Work will be of good quality, free from faults and defects and in conformance with the Contract Documents. All Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. If required by the Authority, the Vendor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

5.00 REQUIRED SUBMISSIONS FOR SELECTED VENDOR(S) AFTER NOTICE OF INTENT TO AWARD

The following must be submitted by an Offeror within ten (10) business days of receipt of a Notice of Intent to Award as set forth in Section 2.11, "Notice of Intent to Award, and Contract Award".

A. Insurance

The selected Offeror shall maintain such insurance as will provide indemnity for claims under the Workers' Compensation act and Employer's Liability; from claims for damages because of bodily injury, including death, to all others and from claims for damages to property - any or all of which may arise out of or result from the Vendor's operations under this contract, or from any subcontractor or anyone directly or indirectly employed by either of them.

Before starting any work for SMART, the Contractor must furnish original certificates of insurance stating that it carries insurance in the following types and minimum amounts:

Comprehensive General Liability	
- Each Occurrence BI/PD	\$1,000,000
- Personal and Adv. Injury	\$1,000,000
- General Aggregate	\$2,000,000
Products and Completed Operations	\$2,000,000
Automobile Liability	\$1,000,000 CSL
Employer's Liability	\$500,000
Workers' Compensation	Statutory Limits

Certificates must set forth the amounts of coverage, policy number, and expiration date, and must name SMART as an additional insured, and must provide for thirty (30) days advance written notice of cancellation or reduction in coverage. Coverage must be primary and non-contributory and provide a waiver of subrogation in favor of SMART. If the Contractor is self-insured, a certificate from the appropriate State agency must be furnished by such agency to SMART. If during the term of the Contract, the insurance certificate or any required coverage expires or is otherwise modified, the Contractor is responsible for providing renewed certificates. The purchase of insurance shall not be a satisfaction of the Contractor's indemnification requirements to SMART.

B. Other Required Submissions, if applicable

- No others are required.
- Other submissions are required as follows: