



WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY
600 Fifth Street, NW, Washington, DC 20001-2651

AMENDMENT OF SOLICITATION / MODIFICATION OF CONTRACT

1. AMENDMENT/MODIFICATION Amendment A004 Page 1		2. EFFECTIVE DATE February 1, 2018	
3. ISSUED BY PURCHASING SECTION Doris Y. Boggs Department of Procurement		4. ADMINISTERED BY (If other than block 3)	
5. CONTRACTOR NAME AND ADDRESS All Potential Offerors Request for Proposal (RFP CQ18038/DYB) <small>(Street, city, county, state, and Zip Code)</small>		6. FORM TYPE (Check only one) <input checked="" type="checkbox"/> AMENDMENT OF SOLICITATION NO. CQ18038/DYB DATE <u>November 6, 2017</u> <small>(See block 7)</small>	
7. THIS BLOCK APPLIES ONLY TO AMENDMENTS OF SOLICITATIONS <input type="checkbox"/> The above numbered solicitation is amended as set forth in block 10. The hour and date specified for receipt of Offers <input checked="" type="checkbox"/> is extended, is not extended. Offerors must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation, or as amended, by one of the following methods; (a) By signing and returning <u>one (1)</u> copy of this amendment; (b) by acknowledging receipt of this amendment on each copy of the offer submitted; or (c) by separate letter or telegram which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGMENT TO BE RECEIVED AT THE ISSUING OFFICE PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If, by virtue of this amendment you desire to change an offer already submitted, such change may be made by telegram or letter, provided such telegram makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.			
8. ACCOUNTING AND APPROPRIATION DATA (If required)			
9. THIS BLOCK APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS This Change Order is issued pursuant to _____ The Changes set forth in block 10 are made to the above numbered contract/order. The above numbered contract/order is modified to reflect the administrative changes (such as changes in paying office, appropriation data, etc.) set forth in block 10. This Supplemental Agreement is entered into pursuant to authority of _____ It modifies the above numbered contract as set forth in block 10.			
10. DESCRIPTION OF AMENDMENT A004 <i>As previously stated in Amendment A003 Proposal due date was extended until 2:00pm March 1, 2018.</i> Amendment A004 incorporates attached responses pertaining to RFP CQ18038/DYB: Offerors are advised that any responses not addressed in attached may be discussed/negotiated with Offeror(s) that are eligible for award consideration and/or Proposals that are determined to be in the Competitive Range. Offeror's are further advised that to be eligible for award consideration they must include a technical Proposal (Volume II) with Offer: See Section 14 of the RFP for details. See page 2 for continuation Except as provided herein and previous and any subsequent Amendments all terms and conditions referenced in cited RFP remain unchanged and in full effect.			
11. <input checked="" type="checkbox"/> CONTRACTOR/OFFEROR IS REQUIRED TO SIGN THIS MODIFICATION AND RETURN <u>1</u>		<input type="checkbox"/> CONTRACTOR/OFFEROR IS NOT REQUIRED TO SIGN THIS DOCUMENT	
12. NAME OF CONTRACTOR/OFFICE BY _____ <small>(Signature of person authorized to sign)</small>		15. WASHINGTON METROPOLITAN AREA TRANSIT BY <u>Lisa Dunlap</u> <small>(Signature of Contracting Officer)</small>	
13. NAME AND TITLE OF SIGNER (Type or print)	14. DATE SIGNED	16. NAME OF CONTRACTING OFFICER (Type or print) <u>Lisa Dunlap</u>	17. DATE SIGNED February 2, 2018

Amendment A004 clarifies that a minimum of two (2) references be included that meets requirement stated RFP in Section 14a, Evaluation Criteria and Basis for Award (*Volume II*).

Also Pre Award Evaluation Data (*Volume III*) requires that Past Performance and Existing Contract/lease info is provided as specified.

Amendment A004 incorporates the following:

- 1) **Attached responses dated 2/1/18 for inquiries received from Offerors**
- 2) **FAQs for WMATA Criminal Policy- Attached**
- 3) **Brand Name or Equal Clause identified below is incorporated:**

BRAND NAME OR EQUAL-CLAUSE

- (a) If items called for by this RFP have been identified by a "brand name or equal" description, such identification is intended to be descriptive, but not restrictive, and is to indicate the quality and characteristics of products that will be satisfactory. Proposals offering "equal" products, including products of the brand name manufacturer, other than the one described by brand name will be considered for award, if such products are clearly identified in the proposals and the Authority determines that they fully meet the salient characteristics (physical, functional, or performance) requirements in the RFP.
- (b) Unless the Offeror proposal clearly indicates in its offer is an "equal" product, the proposal shall be considered as offering a brand name product referenced in the RFP.
- (c) If the Offeror proposes to furnish an "equal" product, a description of the product to be furnished shall be placed in the space provided in the RFP, or such product shall be otherwise clearly identified in its proposal. The Authority, at its sole discretion, must be able to determine equality *without an extensive evaluation*. Thus, if the Offeror has some information demonstrating equality of the proposed equal, such as acceptance by another transit agency, it should submit such documentation with its proposal.
- (d) CAUTION TO OFFERORS. WMATA is not responsible for locating or securing any information that is not identified in its proposal and reasonably available to the Authority. The Offeror must furnish as a part of its proposal all descriptive material (such as cuts, illustrations, drawings, or other information) necessary for the Authority's determination.
- (e) The information furnished may incorporate by specific reference, information previously furnished or otherwise available to the Authority.

Criminal Background Screening FAQs

- 1. Are WMATA contractors now responsible for conducting and providing WMATA, evidence that a criminal background screening was performed?**

Yes. The contractor shall contract with, or otherwise engage, a reputable third-party vendor to conduct the required criminal background screenings and provide evidence of compliance through regular certification to WMATA.

- 2. How should I select a reputable third-party vendor to conduct the required criminal background screenings?**

You should choose a criminal background screening company that is capable of meeting the standards established by your policies.

- 3. Will WMATA contractors be provided an equitable adjustment for conducting their own criminal background screenings?**

Yes, if appropriate. To seek an equitable adjustment the contractor must submit a claim for the equitable adjustment and the Contracting Officer will review and/or negotiate the claim and, if approved, modify the contract as necessary.

- 4. If WMATA no longer conducts criminal background screenings for its contractors, what substantiation is required to be provided when the contractor employee is onboarded?**

WMATA's contracts have been updated to include a certification, made by the vendor at the time of proposal submission that the vendor will comply with the Criminal Background Screening requirements. After contract award, a Criminal Background Screening certification shall be provided by the vendor along with a list of personnel who require a WMATA OneBadge. Thereafter, the quarterly certification represents the vendor's substantiation that all employees of the contractor who will be working on WMATA's premises, or otherwise have access to WMATA customers, property, or confidential information have successfully passed a background screen.

- 5. Are WMATA contractors required to provide the completed and signed Criminal Background Screening Certification quarterly?**

Yes. At the end of each calendar quarter, the contractor shall complete the certification form and submit it to the contracting officer's technical representative (COTR).

- 6. Must the contractors provide the results of the criminal background screening in order to receive the OneBadge?**

No, however a current certification of compliance must be on file with the COTR.

- 7. Does the Criminal Background Screening Certification (Quarterly) need to be submitted for each contractor working on WMATA's premises, or should one form per quarter be submitted for the contracting firm?**

One Criminal Background Screening Certification form should be submitted by the contractor each calendar quarter. At the end of each calendar quarter, the contractor shall submit the completed certification to the contracting officer's technical representative (COTR).

8. **Are WMATA contractors expected to conduct a criminal background screening on its employees and subcontractors every quarter or just certify the criminal background screening was conducted and passed via the Criminal Background Screening Certification (Quarterly) form?**

Contractors are not required to run a new criminal background check each quarter on their employees. Rather, contractors are required to submit a certification form every quarter. This certification may be based on a criminal background check that is not more than one year old.

Regarding subcontractors: The prime contractor must pass this background check and quarterly certification requirement down to each of its subcontractors. Subcontractors shall complete the background checks and the certification forms in the same manner as described above, except that the certification is made to the Contractor, not the COTR.

9. **Is the criminal background screening process retroactive or is this a new process?**

Although WMATA has always conducted criminal background screenings on its employees and contractors, passing the criminal background screening to contractors and the accompanying certification process is new and became effective October 2, 2017.

10. **Does an existing contractor's badge need to be renewed?**

No, not until it expires, however, no new badges or renewals will be issued after October 2, 2017, unless a vendor certification of compliance with criminal background screening requirement is on file with WMATA.

11. **What should I do if I do not know how to construct criminal background check screening policies and procedures?**

Contractors may use WMATA's Criminal Background Checks, Policy/Instruction 7.2.3/1 as a guide.

12. **If a subcontractor works on multiple contracts, for more than one Prime, which Prime is responsible for certifying the subcontractor?**

All prime contractors are responsible for certifying all subcontractors on each project.

13. **Where staff currently working on WMATA property had previously had a criminal background check performed by WMATA, but their badge needs to be renewed, does the contractor employee need a new background check to be performed by the contractor?**

Yes. See question 10.

14. **Does the prime have to sign off for subcontractors or does each subcontractor validate their own staff with no involvement from the prime?**

It is the responsibility of the Prime to ensure their subcontractors are in compliance with the criminal background policy. See questions 8 and 10.

15. **What if I lose my OneBadge?**

WMATA's lost badge policy and process has not changed as of this writing, but is subject to change at WMATA's discretion. Currently, you can replace your lost badge at the ID Office for \$5 after the first loss and \$25 for any subsequent loss.

16. Who do I contact if my badge does not work?

If you have a problem with your badge, please notify a OneBadge team member as soon as you can at the ID Office.

17. The “WMATA’s Criminal Background Checks Policy accompanies this notification” attachment does not apply to “7.02 Contractors and/or consultants performing work on behalf of Metro.” What does apply? Is WMATA requiring that contractor personnel adopt the same policy? How does this align to laws in the District of Columbia, State of Maryland or Commonwealth of VA? EEO and non-discrimination, etc.?

Nothing in the referenced P/I is applicable to contractors. Contractors are not required to adopt the same policy. The policy is provided for informational purposes only. WMATA’s policy is in compliance with all of the laws governing criminal background checks that apply to WMATA. Vendors should have received administrative modifications to their contracts to address the vendors’ responsibility to conduct background checks on certain employees. To the extent that WMATA adopts a policy in the future that directly imposes this background check obligation on vendors, a copy will be made available upon request.

18. Who notifies the ID office that the contractor personnel passed a background check? What about renewing badges? New personnel? After PO awarded?

In all instances it is the COTR responsibility to provide internal coordination regarding whether proper certification is on file with WMATA. Please see questions 4, 7, and 8.

19. What are the specific WMATA requirements for consideration of “nature of the services...”, “nature or gravity of the offense or conduct”, and “time that has lapsed since the offense...” This is very general and unclear. Please provide details for requirements.

WMATA will not provide specific details as each contractor must write their own policy. WMATA does not recommend or endorse any guidance regarding criminal background check policies. That said, the EEOC has published guidance for drafting criminal background check policies.

See: https://www.eeoc.gov/laws/guidance/arrest_conviction.cfm

See also question 17.

20. “At the time the contract is awarded, the contractor shall provide the contracting officer with a copy of the contractor’s criminal background check screening policies and procedures to demonstrate that they account for these considerations.” What specifically is required in the policy and procedure within the scope of the contract with WMATA?” Are you looking for a contractor policy? What if the contractor policy refers to the client policy requirements? What specifically is required in the policy and procedure within the scope of the contract with WMATA?

CLARIFICATION – WMATA is removing this requirement to submit a copy of the contractor’s document from the contract.

WMATA has provided its policy as an example. The contractor may not simply refer to the client policy, but may choose to incorporate provisions of the WMATA policy into the contractor’s policy. Please see questions 17 and 19.

21. “Reputable third-party vendor to conduct the required criminal background screenings, and provide the vendor with a copy of its criminal background check screening policies and procedures”. Define “reputable”. Does WMATA have an approved or non-approved list?

What policy is WMATA requiring the contractor to provide to the 3rd party vendor – the WMATA screening policy?

WMATA expects the contractor to provide the 3rd party vendor with a copy of the contractor's adopted background check policy. **Please see question 25(a).**

22. **“That person passes the contractor’s criminal background screening.” Provide definition for “pass”.**

What constitutes a “pass” will be determined by the contractor’s background check policy.

23. **“At the end of each calendar quarter, the contractor shall certify to the contracting officer’s technical representative (COTR) or designee the contractor’s compliance with the criminal background screening requirement and confirm that all persons required to be screened passed the contractor’s criminal background screening before working on the WMATA contract.” What if personnel are already working and have an approved WMATA ID that is set to expire in the future? Who is the Contracting officer and designee? How is this information maintained? Who notifies the ID office?**

Contractors with a current badge need not complete a criminal background check. Contractors with badges that are set to expire in the future will need to complete a background check before a new OneBadge can be issued.

The COTR will receive the certification from the contractor, retain a copy for the file and forward a copy to the Contracting Officer for upload to the official procurement record. COTR will notify the ID office through the (Managed Services process) after proper certification is received.

24. **“The contractor shall indemnify WMATA and hold WMATA harmless from any and all claims, demands, damages, costs and expenses, including attorneys’ fees and other costs and expenses associated with any claims, demands, etc., and other liabilities and relief arising out of or resulting from the contractor’s criminal background screening obligation and process.” What are the requirements for each different labor category? Provide specific examples and clarifications of requirements of screening obligation and process (see other questions above.)**

WMATA does not require its contractors to use specific screening criteria, but expects contractors to develop their own criteria. As a reference, WMATA has provided a copy of its own policy and screening criteria for its employees. In addition, a link to the EEOC’ guidance regarding criminal background checks can be found at this link: https://www.eeoc.gov/laws/guidance/arrest_conviction.cfm

25. **Quarterly Screening Certification**

- a. **Define “reputable third-party vendor” and provide approved or non-approved list.**
WMATA will not provide a list of approved or non-approved vendors, contractors must determine their own standards for reputable and certify to WMATA that that standard is met.
- b. **What if the contractor personnel have a current WMATA badge based on WMATA’s First Choice background check? Are they to appear on the Quarterly report until expired or after expiration?**

Please see questions 4, 7, 8, and 18.
- c. **It will screen for criminal convictions, taking into consideration (1) the nature of the services or work being performed under the contract with particular regard for the**

individual's access to, and interaction with, WMATA's customers, property, and confidential information; (2) the nature or gravity of the offense or conduct resulting in a criminal conviction; and (3) the time that has lapsed since the conviction and/or completion of the sentence, all contractor personnel who will have access to WMATA's customers, the general public, WMATA's property, or WMATA's information and who work on this Contract during each calendar year within this Contract's period of performance. The Offeror will provide certification that it conducted these screenings to the contracting officer's technical representative (COTR) on a quarterly basis, on a form provided.

What about those that expire?

Please see questions 4, 7, 8, and 18

Is this retroactive or beginning October 2017? The memorandum is dated September 15, 2017; however, not mailed until September 28, 2017 and there are many open questions.

Please see questions 4, 7, 8, and 18.

- d. **"It will screen for criminal convictions, taking into consideration (1) the nature of the services or work being performed under the contract with particular regard for the individual's access to, and interaction with, WMATA's customers, property, and confidential information; (2) the nature or gravity of the offense or conduct resulting in a criminal conviction; and (3) the time that has lapsed since the conviction and/or completion of the sentence, all contractor personnel who will have access to WMATA's customers, the general public, WMATA's property, or WMATA's information and who work on this Contract during each calendar year within this Contract's period of performance. The Offeror will provide certification that it conducted these screenings to the contracting officer's technical representative (COTR) on a quarterly basis, on a form provided." What are the specific requirements for each labor category/nature of services or work being performed? How does each vendor interpret this uniformly?**

Please see the forms of certification as a clarification to what information is being certified to by the vendor. Please see questions 17, 19, and 20 with regard to vendor implementation.

What are WMATA requirements?

WMATA's requirements are defined in its policy. Under the new requirement, contractors must establish their own background check policy and standards.

- e. **"...good standing and otherwise fit to work..." Please define and provide clarification.**

Please see questions 17, 19, and 20 with regard to vendor implementation/responsibility for establishing their own program.

- f. **What are the specific requirements for reliance on results; i.e., there are 0 convictions or charges?**

Please see questions 17, 19, and 20 with regard to vendor implementation/responsibility for establishing their own program.

- g. **“The Offeror has not obtained or otherwise been made aware of any information about any contractor personnel working on this Contract that contradicts or otherwise impacts the contractor’s determination that such persons passed the contractor’s criminal background screening and/or are fit to work on this contract.” What is the intent of this sentence and what does it mean?**

If the contractor is relying on a background check completed within the last year, the contractor is affirming that it has not been made aware of any charges or offenses that would contradict the last background check. Example: background check was clear when last checked but employee of contractor notifies contractor of a recent arrest with pending charges or a conviction that had not occurred at the time of the last background check. In the example, the contractor would be aware of information that impacts the contractor’s determination that this employee would still pass the screening and/or is fit to work on the WMATA contract.

26. **Some of our resources received a notice that their badge expires in 30 days and were provided the PDF attachments labeled “Contractor ID Form” and “Consumer_Authorization”. Do they complete these forms also? Do they return to the ID office or Contracting Officer? Who is the point of contact?**

The “Contractor ID Form” and “Consumer Authorization Form” are now obsolete. The Criminal Background Screening Certification should be forwarded by the contractor to the contracting officer’s technical representative. Additionally, a OneBadge Request Form must be completed by a WMATA employee for each contractor employee doing work on WMATA premises. If you require your badge to be renewed before it expires, you must contact your WMATA Manager and your employer. When your badge expires, ALL access to ALL Metro properties and your access to the WMATA network (your computer access) will EXPIRE.

27. **What type of background check should we run? Any specific requirements? It says Criminal History (Should it include anything else except County Criminal and Statewide Criminal? What States/Counties)?**

Please see questions 17, 19, and 20 with regard to vendor implementation/responsibility for establishing their own program.

28. **When the check is done, who specifically should we notify? Should we attach the background check results? Should we send a screening certificate on this occasion or wait till the end of the quarter?**

One (1) Criminal Background Screening Certification form should be submitted by the contracting firm for each contract under which they perform WMATA work, each calendar quarter. At the end of each calendar quarter, the contractor shall complete a certification and submit it to the contracting officer’s technical representative (COTR) indicating the contractor’s compliance with the criminal background screening requirement and confirm that all persons required to be screened passed the contractor’s criminal background screening before working on the WMATA contract. A copy of the background check is not required unless it is a MetroAccess contractor.

29. **WMATA ran checks for the current incumbents already (less than one year ago), should we wait until their possible PO renewal or badge expiration to run checks on our side, or WMATA expects us to run checks to all EastBanc Tech personal right now regardless?**

Please see questions 4, 7, 8, and 18.

30. **What search criteria should contractors use for background checks?**

Please see questions 17, 19, and 20 with regard to vendor implementation/responsibility for establishing their own program.

31. **What is the rationale for quarterly attestation from our contractors versus annually or when a contract is awarded or renewed? Many contractors only run background checks when they hire staff, it is not normal and customary to run annual background checks on all employees.**

Certifications are required quarterly to ensure that any new information, known by the contractor, but discovered after the background check date, is incorporated in the contractor's certification. Please see question 25(g) for an example.

32. **A key question is does the Federal government require quarterly background check submissions and total annual background checks for all of its contracts to include all employees of the contractor to also include subcontractors?**

WMATA will not speak to the requirements of the Federal government.

33. **Why can't we just require a copy of their background check policy and impose indemnification by them to us if they don't follow the policy within our requirements?**

Please see questions 17, 19, and 20 with regard to vendor implementation/responsibility for establishing their own program. Yes, it is anticipated that the general indemnification provided in the base contract would provide WMATA protection from any contractor failure to meet this requirement.

34. **In the 9/29/17 cover memo, last paragraph, it states that either the contract manager or the COTR will have the responsibility to collect/monitor these attestation forms. We need more clarity on whose actual responsibility this is. It can't be left open and being that this is an administrative restriction being imposed by PRMT it would be unfair to place this administrative burden on COTR's.**

A detailed WMATA Policy Instruction is being drafted. At this time, it is anticipated that the COTR will receive the certification from the contractor, retain a copy for the file and forward a copy to the Contracting Officer for upload to the official procurement record. COTR will notify the ID office through the (Managed Services process) after proper certification is received.

35. **We already have badge applications backing up due to the attestation requirement. Policy was approved 07/10/17, memo was sent 09/29/17, are we expected to implement policy on day one with no grace period notice to contactors to prepare for this imposed change?**

Most contractors with active contracts were notified of this policy change during August and September of this year. This new process is required and effective immediately.

36. **Why couldn't the attestation be included in the RFP?**

Modified contract language is being drafted to address this issue. At this time it is anticipated that all future solicitations will include this requirement.

37. **We need to perform criminal background check for last 10 years on the selected consultant. This is a statement not a question. To the extent that this is a question, "does a contractor need to review 10 years of data in the context of its criminal background screening"?**

Please see questions 17, 19, and 20 with regard to vendor implementation/responsibility for establishing their own program.

- 38. We understand that in the last 10 years, if the consultant receives 2 or more points, then the consultant is not eligible for the work at WMATA.**

Please see questions 17, 19, and 20 with regard to vendor implementation/responsibility for establishing their own program.

- 39. 1 point for every misdemeanor and 2 points for every felony?**

Please see questions 17, 19, and 20 with regard to vendor implementation/responsibility for establishing their own program.

- 40. If the consultant secures less than 2 points, he/she will be considered to be eligible to work at WMATA for the contract position.**

Please see questions 17, 19, and 20 with regard to vendor implementation/responsibility for establishing their own program.

- 41. What type of background check should we run? Any specific requirements? Should it include anything else except County Criminal and Statewide Criminal? What States/Counties?**

Please see questions 17, 19, and 20 with regard to vendor implementation/responsibility for establishing their own program.

- 42. When is an ID required for delivery people (UPS, Fedex, Staples, Deer Park) and is an escort required?**

Staff is drafting a P/I to address this question.

Amendment A004 (2/2/18)- RFP CQ1803/DYB Leasing of Tires and Wheel Management Services for WMATA Buses		
	Questions	Authority Response:
1	Please confirm the resulting contract will be mutually negotiated and agreed.	Resulting contract will be mutually negotiated and agreed between WMATA and Successful Offeror.
2	Throughout the entire specification, please confirm references to laws, codes, requirements, and/or regulations pertain to applicable laws, applicable codes, applicable requirements, and/or applicable regulations, as the case may be	The successful Offeror is responsible for adhering to all Federal and Local laws and regulations.
3	Please confirm all access to documents and information hereunder will be reasonable access. WMATA will use reasonable efforts to preserve the confidentiality of documents and information submitted hereunder to the extent permitted by applicable law.	WMATA will use reasonable efforts to preserve the confidentiality of documents and information submitted; Furthermore Offeror's must identify whether any proprietary information is contained in Proposal.
4	Please confirm if this contract is federally funded.	Contract is not federally funded.
5	Page 2. Notice to Offerors. Please confirm if Volume I, Volume II, and Volume III should be separately packaged.	As-expressed in RFP Solicitation Instruction, Section 13, Volume I, Volume II, and Volume III are to be separately packaged.
6	Page 2. Notice to Offerors. Please confirm the "Proposed Form of Lease Agreement" is in the standard form for tire leasing and services of the proposer.	Offeror shall include its standard form of lease agreement with its proposal for review.
8	Page 4. Solicitation, Offer and Award. Please confirm the number of copies prescribed in the proposal format of the RFP Solicitation Instructions, 10. Proposal Format Instructions/Requirements prevail over this item.	Number of copies identified in Solicitation Instructions #10- Proposal Format Instructions/Requirements will prevail over this item.
9	Page 7 through 9. Price Schedule. Please remove lines 0008 and 0009 for each base year. Per 6.8 Damaged/Lost Tires, lost tires would use the same pricing as lines 0006 and 0007, at the 50% tread depth or auditable accounting.	Recommendation Denied
10	Page 10 through 11. Price Schedule. Please confirm no wheel powder coating will be required in the option years or please restore the item.	No powder coating will be required in option years, buses equipped with steel wheels will be retired by the start of the option years.
11	Page 7 through 9. Price Schedule. Please remove line 0005 for each option year. Per 6.8 Damaged/Lost Tires, lost tires would use the same pricing as line 0004, at the 50% tread depth or auditable accounting.	Recommendation Denied
12	Page 19. RFP Solicitation Instructions. 16. Price Proposal Evaluation. Please confirm your understanding that commercial items are being procured and commercial items are exempt from cost and price data pursuant to the FAR. Offeror can assist WMATA in a comparison of pricing and billing terms relative to similar transit systems in similar geography. This is a competitive price procurement and not a procurement for a cost-plus contract.	WMATA does not follow the FAR, except for FAR part 31. WMATA does not have a commercial items exception.
13	Page 20. RFP Solicitation Instructions. 20. Site Visit/ Inspection Offeror's Facilities. Please confirm this is not applicable to this procurement as this procurement is not for construction and the work will be performed at WMATA's facilities.	As expressed in section 20 of the RFP Solicitation Instructions WMATA may make site visits prior to the Contract/Lease being award to assess Offeror's resources and ability to maintain/provide responsible services.
14	Page 21. RFP Solicitation Instructions. 23. Opportunity for Disadvantaged Business Enterprises to Propose. Please confirm there is no DBE contract goal for this procurement.	The resultant contract will use operational funds therefore there is no DBE goal.
15	Page 21. RFP Solicitation Instructions. 25. Restriction on Disclosure and Use of Data. Please modify item b as follows: This information does not limit the Authority's right to use information contained in this data, if the Authority obtains it from another independent, legitimate source <u>that had the right to disclose such information and was not subject to any confidentiality requirements.</u>	WMATA will not agree. WMATA would have no way to ascertain what confidentiality agreements a third party may be subject to.
16	Page 30. Representations & Certifications. 10. Criminal Background Screening Certification (Quarterly). Please confirm that any criminal conviction would exclude Contractor's personnel (direct or subcontracted) from working on WMATA property.	See information included in Amendment A004: Selected contractor will have to come up with its own screening requirements, since WMATA no longer conducts background screenings for contractor personnel. Contractors may, but are not required to follow the guidelines that WMATA uses to screen its own personnel, a copy of which is attached hereto.
17	Page 31. Pre-Award Evaluation Data. Item 7. Please confirm that this may be limited to 5 representative examples.	To clarify the inconsistency cited Sections in the RFP -Pre-Award Evaluation Data requires that two (2) list of similar contract/lease for past performance and one (1) similar current contract/lease be included with Volume III (Contractual documents); Section 14 of the RFP requests that references are included with Volume II as specified: Amendment A004 will identify that a minimum of 2 references are included with Volume II as specified in Section 14 (a) of the RFP.
18	Page 31. Pre-Award Evaluation Data. Item 8. Please confirm that this may be limited to 5 representative examples.	See response for item #17
19	Item 9. Please confirm that this request is to indicate where an offeror was deemed non-responsive in a procurement. In most instances, an offeror is not an award but a government entity chooses to go with the lowest price or overall value.	Pre-Award Data is required to assess Offeror's responsibility to successfully perform and maintain contract objectives.
20	Page 31 & 32. Pre-Award Evaluation Data. Item 11. Please remove as not applicable. Major corporations will be participating in this procurement.	WMATA is merely asking for financial information to help in determining whether a prospective contractor has the financial capacity to perform the contract/lease. If bidder is a "major corporation," then it should have audited financial statements on hand that it could easily provide WMATA to satisfy this requirement. WMATA should not have to determine financial responsibility based upon prior reputation as opposed to current financial status.
21	Page 35 & 36. Chapter I – Terms and Conditions. 8. Audit, Availability, and Inspection of Records. Please remove this article in its entirety as this is a competitive price procurement and not for a cost-plus contract and commercial items are not subject to cost and pricing pursuant to the FAR.	WMATA does not follow the FAR, except for FAR part 31. WMATA does not have a commercial items exception.

22	Page 35 & 36. Chapter I – Terms and Conditions. 10. Contracting Officer's Technical Representative (COTR). Please remove item 13. A monthly price is being requested for services in the Price Schedule. This is a competitive price procurement and not a cost-plus contract. Payroll information should not be required.	Not all of the items listed in this paragraph regarding the COTR's duties will apply to every contract, since it just lists the possible roles for the COTR. There is no need to modify this section.
23	Page 40. Chapter II – Time/Delays/Liquidated Damages. 6. Liquidated Damages for Delay. Please confirm that written notice will be provided prior to any deduction of monies due related to liquidated damages.	Contractor will be notified when Liquidation Damages will be assessed.
24	Page 40. Chapter II – Time/Delays/Liquidated Damages. 6. Liquidated Damages for Delay. Please modify paragraph a as follows: Time is of the essence to this Contract/Lease. In the event of a delay under this Contract/Lease, not caused by a force majeure event , beyond the period of performance or beyond the period to which such time may be extended by the Contracting Officer, the Authority shall be paid damages for such delay. Since the amount of such damages and the loss to the Authority will be extremely difficult to ascertain, it is hereby expressly agreed that such damages will be liquidated and paid as follows:	This language is acceptable to WMATA.
25	Page 40. Chapter II – Time/Delays/Liquidated Damages. 6. Liquidated Damages for Delay. Please modify paragraph b as follows: In case of failure on the part of the Contractor to complete the work within the time specified in Statement of Work, the Contractor shall pay to the Authority as liquidated damages, pursuant to the DEFAULT AND DELAY OF WORK Articles. The sum of \$359.44 for each bus directly affected by such delay for each calendar day until such work is completed for delay .	Remains as stated in the RFP subject any negotiation/discussions
26	Page 41. Chapter II – Time/Delays/Liquidated Damages. 7. Extensions of Time/Force Majeure. Please modify item b.3 as follows: The delay cannot be avoided or mitigated by the exercise of all reasonable precautions, efforts and measures available to the Contractor, whether before or after the cause of delay, it being understood that Contractor shall have no duty to mitigate delays or losses caused by the Authority's negligence; and	This language is acceptable to WMATA.
27	Page 41. Chapter II – Time/Delays/Liquidated Damages. 7. Extensions of Time/Force Majeure. Please modify paragraph as follows: The request for an extension of time shall be made within ten (10) days after the Contractor knows or should know of any cause for which it may claim an excusable delay. The Contractor's request shall contain any potential basis for an extension of time, describing, as fully as possible, the nature and projected duration of the delay and its effect on the completion of the work identified in the request. Within five (5) business thirty (30) days after his or her receipt of all such information, the Contracting Officer shall advise the Contractor of his or her decision on such requested extension. Where it is not reasonably practicable for the Contracting Officer to render his or her decision in the five (5) business thirty (30) day period, he or she shall, prior to the expiration of such period, advise the Contractor that he or she will require additional time and state the approximate date upon which he or she expects to render a decision. Notwithstanding the foregoing, no liquidated damages (as permitted under Section 6) will be assessed against Contractor while the requested extensions is pending.	Chapter II – Time/Delays/Liquidated Damages. 7. Extensions of Time/Force Majeure : Remains as stated in the RFP
28	Page 46. Chapter III – Acceptance/Inspection/Deficiencies. 4. Warranty of Supplies. Please modify paragraph c as follows: Should the Contractor shall fail to repair or replace any part or do any work in accordance with the terms of this warranty, or if immediate replacement or work is necessary to maintain operations and Contractor is unable to comply with such timetable, the Authority shall have the right to cause such replacement to be made, utilizing its own forces and/or those of third parties as the Authority shall reasonably deem appropriate, at Contractor's expense.	This question can be discussed prior to contract award
29	Page 47. Chapter III – Acceptance/Inspection/Deficiencies. 4. Warranty of Services. Please remove paragraph d in its entirety. If WMATA does not require correction or re-performance, the Contracting Officer shall make an equitable adjustment to the Contract price.	WMATA will receive equitable adjustment for defective performance or supplies
30	Page 47 & 48. Chapter III – Acceptance/Inspection/Deficiencies. 5. Correction of Deficiencies. Please modify the first paragraph as follows: The Contractor must replace materials or correct workmanship not conforming to the Contract's requirements at no additional cost to WMATA, if WMATA has expressly requested correction or re-performance. In addition, the Contractor is subject to any liquidated damages specified in this Contract or actual damages incurred by WMATA. If the Contractor fails to correct deficiencies, the Contracting Officer, may take specific action as follows:	To the extent that the proposed language limits WMATA's right to demand that deficiencies be corrected to those cases where it has expressly requested correction or re-performance, such proposal is denied because it would prevent WMATA from demanding that latent defects be corrected when they are discovered.
31	Page 50. Chapter IV – Changes/Pricing Adjustments. 1. Change Orders. Please confirm any contract changes would be mutually agreed in writing prior to implementation.	Any Changes/Pricing Adjustments would be mutually agreed upon WMATA and Contractor and a modification issued thereafter.
32	Page 50. Chapter IV – Changes/Pricing Adjustments. 1. Change Orders. Please modify paragraph c as follows: Disagreement regarding either party's right to any adjustment in price or time for performance as the result of a change implemented pursuant to this article shall be subject to adjudication in accordance with the "Disputes" article of this Contract. Notwithstanding the pendency of any such dispute, both parties the Contractor expressly acknowledges that they-it shall remain fully obligated to perform the Contract/Lease as so changed.	If it is changing the contractor to both parties, then it is acceptable.

33	<p>Page 52. Chapter IV – Changes/Pricing Adjustments. 3. Accounting and Record Keeping for Adjustments. Please modify paragraph f as follows:</p> <p>Limitation on Price Adjustments. If the Contractor or any subcontractor fails to generate, maintain, or make available any records required under this Contract/Lease, in addition to any rights to which the Authority may be entitled, the Contracting Officer, <u>in its reasonable discretion</u>, shall determine whether such failure is willful, deliberate or otherwise precipitated by the Contractor's bad faith, in which case the Contractor shall not be entitled to any price adjustment for the work in question. Where the Contracting Officer determines that the failure was not the result of the Contractor's bad faith, he or she shall determine the reasonable direct costs of the work for which records are not available, and add a single mark-up for indirect expenses not to exceed ten percent (10%) of the direct costs based on:</p>	This change is not necessary because all decisions of the Contracting Officer are within his or her reasonable discretion.
34	<p>Page 54. Chapter V – Invoices/Payments/Deductions. 2. Price Reduction for Defective Cost or Pricing Data – Modifications. Please remove this article in its entirety as this is a competitive price procurement and not for a cost-plus contract.</p>	This clause must stay in since all change orders are paid on a cost-reimbursement basis, even in fixed price contracts. It appears the above clause can be deleted
35	<p>The Contractor shall, under this Contract/Lease, establish procedures to ensure timely payment of amounts due pursuant to the terms of its subcontracts. The Contractor shall pay each subcontractor for satisfactory performance of its contract, or any billable portion thereof, no later than <u>thirty (30)-ten (40)-days</u> from the date of the Contractor's receipt of payment from the Authority for work by that subcontractor. The Contractor shall also release, any retention withheld from the subcontractor within <u>thirty (30)-ten (40)-days</u> of satisfactory completion of all work required by that subcontractor.</p> <p>REASON: This change will maintain payment terms between subcontractors and Prime as Prime and WMATA.</p>	WMATA wants to ensure that the contractor timely pays its subs, so that it does not receive complaints from subs. about non-payment. Since there is no privity of contract between WMATA and the subs, the only way to accomplish this is through a contract clause with the prime. If the only request is to change 10 days to 30 days, then this is OK.
36	<p>Page 55. Chapter VI – Contract Termination/Stop Work Orders/Disputes. 2. Termination for Default. Please modify paragraph a as follows:</p> <p>The Contractor shall be in default if it commits a breach of any of its obligations under this Contract/Lease deemed material by the Contracting Officer <u>in its reasonable discretion</u>. In addition to those instances specifically referred to in this Contract/Lease, the Contractor shall be in default in the following circumstances:</p>	This change is not necessary because all decisions of the Contracting Officer are within his or her reasonable discretion.
37	<p>It fails to deliver the supplies or perform the services within the time specified in this Contract/Lease or any extension that the Contracting Officer <u>approves as a result of Contractor's own acts or omissions</u>.</p>	If the intent is that the contractor will not be responsible in the event of an excusable delay, there is no need to change the contract language to add this, since it is a general principle of government contract law.
38	<p>Page 56. Chapter VI – Contract Termination/Stop Work Orders/Disputes. 2. Termination for Default. Please modify item a.v as follows:</p> <p>It fails to make progress in a manner that <u>is the Contracting Officer deems unreasonable</u> so as to endanger performance of this Contract/Lease; or</p>	It is always within the Contracting Officer's discretion to determine what is reasonable under the circumstances.
39	<p>Page 56. Chapter VI – Contract Termination/Stop Work Orders/Disputes. 2. Termination for Default. Please modify paragraph c as follows:</p> <p>Upon receipt of a "Notice of Default", <u>which shall follow a Notice to Cure and the time period provided for cure</u>, the Contractor shall immediately cease performance of the work so terminated. The Authority shall have the right to take any action necessary to complete the work, including performing the work itself, or contracting with another party to do so. In the event the work is completed directly by the Authority or by a third party, the Contractor shall be liable for the additional costs and expenses necessary to complete the work, including, without limitation, labor, material costs, plant costs, tooling expenses, and equipment and property costs. The Authority may deduct the costs and expenses so charged and pay them out of any monies otherwise payable to the Contractor. Nothing contained herein shall be deemed to relieve the Contractor of its continuing obligation to perform any portion of this Contract/Lease that was not terminated</p>	This requested change is not necessary. It is a general principal of government contracts law that a Notice of Default follows a Notice to Cure, and expiration of the cure period.
40	<p>Page 58. Chapter VI – Contract Termination/Stop Work Orders/Disputes. 3. Termination for Convenience. Please modify item b.9 as follows:</p> <p>Use <u>reasonable</u> its best efforts to sell, as the Contracting Officer authorizes, any property of the types referred to in paragraph (b)(7). The Contractor is not required to extend credit to any purchaser and may acquire the property under the conditions that the Contracting Officer prescribes. The proceeds of any transfer or disposition will be applied to reduce payments to be made by the Authority under this Contract/Lease, credited to the price or cost of the work, or paid in any other manner that the Contracting Officer directs.</p>	Whether it is best effort or reasonable effort, it still has to be reasonable under the circumstances.
41	<p>Page 58. Chapter VI – Contract Termination/Stop Work Orders/Disputes. 3. Termination for Convenience. Please modify paragraph d as follows:</p> <p>As soon as reasonably practicable, and not later than <u>sixty (60) calendar twenty (20)-business days</u> following the Authority's issuance of a "Notice of Termination" pursuant to paragraph (a), the Contractor shall submit a termination settlement proposal (TSP) to the Contracting Officer in the form that he or she prescribes, detailing the costs to which it asserts entitlement pursuant to this article. If the Contractor fails to submit the TSP within the time prescribed, the Contracting Officer may determine, on the basis of information available, the amount, if any, due to the Contractor as a result of the termination and shall pay the amount so determined.</p> <p>REASON: Due to the number of wheel positions/vehicles at WMATA, this time frame would be needed in order to produce a settlement proposal.</p>	If there is a termination, the contractor can negotiate the date that the TSP is required with the contracting officer. Twenty days is just the minimum amount of time required, unless a longer period is agreed to by the parties.

42	<p>Page 58. Chapter VI – Contract Termination/Stop Work Orders/Disputes. 3. Termination for Convenience. Please modify paragraph c as follows:</p> <p>Following submission of the Contractor's TSP pursuant to paragraph (d), the parties shall agree upon the whole, or any part, of the amount to be paid or remaining to be paid as a result of the termination. The amount may include a reasonable allowance for profit on work in progress and completed. In no event shall the total amount to be paid to the Contractor pursuant to this article exceed the total Contract/Lease price as reduced by (1) payments previously made and (2) the Contract/Lease price of the remaining work, not terminated.</p> <p>REASON: Since tire leasing is not construction, work completed vs in progress is vague.</p>	<p>Instead of work in progress or work completed, why not use the following: ... "The amount may include a reasonable allowance for profit on leased vehicles that have been delivered to the Authority."</p>
43	<p>Page 61. Chapter VI – Contract Termination/Stop Work Orders/Disputes. 5. Disputes. Please modify paragraph a as follows:</p> <p>Any dispute concerning a question of fact arising under or related to this Contract/Lease that is not disposed of by agreement, shall be decided by the Contracting Officer, who shall reduce his/her decision to writing and mail or otherwise furnish a copy thereof to the Contractor. The Contracting Officer's decision shall be final and conclusive unless, within thirty (30) calendar days from the date of its receipt, the Contractor mails or otherwise furnishes to the Contracting Officer, a written notice of appeal addressed to the Authority Board of Directors. Such notice must indicate that an appeal is intended and must reference the decision and Contract/Lease number. The decision of the Board of Directors or its duly authorized representative for the determination of such appeals shall be final and conclusive, unless in proceedings initiated by either party for review of such decision in a court or board of competent jurisdiction, it determines that the decision was fraudulent, or capricious, or arbitrary, or so grossly erroneous as to necessarily imply bad faith, or not supported by substantial evidence. In any appeal under this article, the appellant shall be afforded an opportunity to be heard and offer evidence in support of its appeal. Pending final decision of a dispute hereunder, the Contractor shall proceed diligently with the performance of this Contract/Lease in accordance with the Contracting Officer's decision. The Armed Services Board of Contract Appeals (ASBCA) is the Board of Directors' authorized representative for final decisions on an appeal.</p>	<p>The decision of the Board of Directors or its duly authorized representative for the determination of such appeals shall be final and conclusive, unless in proceedings initiated by either party for review of such decision in a court or board of competent jurisdiction, it determines that the decision was fraudulent, or capricious, or arbitrary, or so grossly erroneous as to necessarily imply bad faith, or not supported by substantial evidence. This is the standard of review of an agency decision, and cannot be changed.</p>
44	<p>Page 61. Chapter VI – Contract Termination/Stop Work Orders/Disputes. 5. Disputes. Please modify paragraph b as follows:</p> <p>This "Disputes" article does not preclude consideration of questions of law in connection with decisions provided for in paragraph (a) above. Nothing in the Contract/Lease, however, shall be construed as making final, the decisions of the Board of Directors or its representative on questions of law, <u>and such questions may be raised by either party in a court of law having jurisdiction over such question.</u></p>	<p>There is no need for this requested language.</p>
45	<p>and nature for injury, including personal injury or death of any person or persons, and for loss or damage to any property, including the property of the Contractor and the Authority, occurring in connection with, or in any way arising out of the use, occupancy and performance of the work and/or any acts in connection with activities to be performed under this Contract/Lease, <u>except in the extent</u> unless the loss or damage is due to the sole negligence of the Authority. Nothing in the preceding sentence shall be deemed to relieve Contractor from ultimate liability for any of its obligation under this Contract/Lease.</p>	<p>The response for this question is No</p>
46	<p>Page 62. Chapter VII – Indemnification/Insurance/Risk of Loss. 1. Indemnification. Please modify paragraph b as follows:</p> <p>Contractor shall indemnify, defend and hold harmless the Authority, its Board members, employees and agents, against any and all claims, liabilities, losses, demands, damages, penalties, costs, charges, remedial costs, environmental claims, fees or other expenses including attorneys' fees, related to, arising from or attributable to any effluent or other hazardous waste, residue, contaminated soil or other similar material discharged from, removed from, or introduced on, about or under the job site by Contractor during the terms of this Contract/Lease. The foregoing indemnity does not apply to loss or damage due to preexisting conditions, whether known or unknown.</p>	<p>If the only change is to add during the term of this contract/lease, then this is OK, as long as it is clear that Contractor will be liable if it creates the condition during the term of the contract/lease, but it does not appear or is not discovered until after the contract/lease expires.</p>
47	<p>Page 62. Chapter VII – Indemnification/Insurance/Risk of Loss. 1. Indemnification. Please modify paragraph c as follows:</p> <p>If any action or proceeding relating to this indemnification is brought against the Authority, then upon written notice from the Authority to the Contractor, the Contractor shall, at its own expense, resist or defend such action or proceeding by counsel approved by the Authority in its <u>reasonable discretion</u> in writing. No approval of counsel shall be required where the cause of action is resisted or defended by counsel of any insurance carrier obligated to resist or defend the same. The Authority reserves the right to use its own counsel under this indemnity at Contractor's sole cost and expense, <u>subject to the limitations set forth above.</u></p>	<p>If the only change is to add during the term of this contract/lease, then this is OK, as long as it is clear that Contractor will be liable if it creates the condition</p>
48	<p>Page 62. Chapter VII – Indemnification/Insurance/Risk of Loss. 2. Insurance Requirements. Please remove the first paragraph in its entirety.</p> <p>If you do not currently carry all of the required insurance for this RFP, a current certificate of insurance (COI) evidencing the insurance you do carry and a letter from your insurance agent/broker stating that "if our client (you) are awarded the Contract/Lease, the required coverage will be provided" will suffice.</p> <p>REASON: The major corporations that will be participating in this procurement include self-insured retentions as a part of their insurance program. Certain coverages including Commercial General Liability are self-insured at the limits specified.</p>	<p>A certificate of insurance and/or SIR letter will suffice as evidence of limits/coverage</p>
49	<p>Page 63. Chapter VII – Indemnification/Insurance/Risk of Loss. 2. Insurance Requirements. I. Minimum Required Insurance: Minimum Limits of Insurance. Please remove the coverage for Pollution Liability. Tires are not hazardous waste and this coverage should not be applicable.</p>	<p>Is there coverage under the CGL policies for waste disposal, including tires? Also, how will the cleaning solution used to clean the wheels be handled? Depending on these answers RISK may reevaluate and remove the Pollution requirement</p>
50	<p>Page 63. Chapter VII – Indemnification/Insurance/Risk of Loss. 2. Insurance Requirements. II. Minimum Required Insurance: Minimum Insurance Coverages and Coverage Provisions. Please modify item 1 as follows:</p> <p>Contractor is required to maintain the prescribed insurance <u>or self-insurance</u> outlined in this Exhibit A during the entire period of performance under this Contract/Lease. Notice to Proceed (NTP) will not be issued until all required insurance has been approved by WMATA.</p>	<p>Proof of insurance is required every 12 months to make sure valid</p>

51	<p>Page 63. Chapter VII – Indemnification/Insurance/Risk of Loss. 2. Insurance Requirements. II. Minimum Required Insurance: Minimum Insurance Coverages and Coverage Provisions. Please modify item 2 as follows:</p> <p>The prescribed insurance or self-insurance coverage and limits of insurance are minimum required coverages and limits. Contractor is encouraged, at its sole cost and expense, to purchase any additional insurance coverages and or limits of insurance that Contractor deems prudent and necessary to manage risk in the completion of this Contract/Lease.</p>	This clause will remain stated in the RFP
52	<p>Page 63. Chapter VII – Indemnification/Insurance/Risk of Loss. 2. Insurance Requirements. II. Minimum Required Insurance: Minimum Insurance Coverages and Coverage Provisions. Please modify item 3 as follows:</p> <p>Upon written request from WMATA, contractor shall permit WMATA to review applicable insurance policies at the Contractor's corporate headquarters during normal business hours-provide copies of any requested insurance policies, including applicable endorsements, within five (5) business days of each request.</p> <p>REASON: Major corporations consider insurance policies confidential and proprietary and do not provide copies.</p>	RISK receives sanitized copies of policy or Dec page on a regular basis when asked. This is only on case by case basis.
53	<p>Page 64. Chapter VII – Indemnification/Insurance/Risk of Loss. 2. Insurance Requirements. III. Coverage-Specific Requirements. Commercial General Liability. Please remove item 1 as this coverage is a self-insured retention for most major corporations. A letter of self-insurance may be provided.</p>	A letter of self insurance would be acceptable
54	<p>Page 64. Chapter VII – Indemnification/Insurance/Risk of Loss. 2. Insurance Requirements. III. Coverage-Specific Requirements. Please modify item 2 as follows:</p> <p>Required minimum limits of coverage may be achieved through a combination of the aforementioned CGL coverage form and/or self-insurance retention, and an Umbrella/Excess Liability coverage form(s), provided that the Umbrella/Excess Liability coverage form(s) provides the same or broader coverage than the prescribed CGL coverage form.</p>	A combination of limits with varying coverages would be acceptable
55	<p>Page 64. Chapter VII – Indemnification/Insurance/Risk of Loss. 2. Insurance Requirements. III. Coverage-Specific Requirements. Commercial General Liability. Please remove item 3 as additional insured status cannot be established for self-insured coverages.</p>	Not necessary to remove any wording that isn't applicable
56	<p>Page 64. Chapter VII – Indemnification/Insurance/Risk of Loss. 2. Insurance Requirements. III. Coverage-Specific Requirements. Commercial General Liability. Please remove item 4 as waiver of subrogation cannot be established for self-insured coverages.</p>	Not necessary to remove any wording that isn't applicable
57	<p>Page 64. Chapter VII – Indemnification/Insurance/Risk of Loss. 2. Insurance Requirements. III. Coverage-Specific Requirements. Commercial General Liability. Please remove item 5 as not applicable to this procurement.</p>	Not necessary to remove any wording that isn't applicable
58	<p>Page 64. Chapter VII – Indemnification/Insurance/Risk of Loss. 2. Insurance Requirements. III. Coverage-Specific Requirements. Business Automobile Liability Insurance. Please modify item 2 as follows:</p> <p>Policy shall provide be endorsed with Additional Insured coverage Endorsement(s) in compliance with the "Additional Insured" Section below, which will be noted on the insurance certificate.</p> <p>REASON: As a matter of practicability, major corporations include specific contract info on COIs in lieu of endorsing policies</p>	As long as RISK receives the addendum to the COI which lists all of the Additional Insured entities, of which WMATA is one
59	<p>Page 64. Chapter VII – Indemnification/Insurance/Risk of Loss. 2. Insurance Requirements. III. Coverage-Specific Requirements. Business Automobile Liability Insurance. Please modify item 3 as follows:</p> <p>Policy shall provide be endorsed with a Waiver of Subrogation coverage Endorsement(s) in compliance with the "Waiver of Subrogation" section below, which will be noted on the insurance certificate.</p>	This change is acceptable
60	<p>Page 64. Chapter VII – Indemnification/Insurance/Risk of Loss. 2. Insurance Requirements. III. Coverage-Specific Requirements. Business Automobile Liability Insurance. Please remove item 5 in its entirety.</p> <p>MCS-90 Endorsement for work involving the transportation or disposal of any hazardous material or waste off of the jobsite. If the MCS-90 Endorsement is required, minimum auto liability limits of \$5,000,000 per occurrence are also required.</p> <p>REASON: Tires are not hazardous waste.</p>	Please see response for #49
61	<p>Page 64. Chapter VII – Indemnification/Insurance/Risk of Loss. 2. Insurance Requirements. III. Coverage-Specific Requirements. Business Automobile Liability Insurance. Please remove item 6 in its entirety.</p> <p>Non-Owned Disposal Site (NODS) Endorsement providing coverage for the Contractor's legal liability arising out of pollution conditions at the designated non-owned disposal site.</p>	Please see response for #49

62	<p>Page 64. Chapter VII – Indemnification/Insurance/Risk of Loss. 2. Insurance Requirements. III. Coverage-Specific Requirements. Pollution Liability Insurance. Please remove this section in its entirety.</p> <p>Pollution Liability Insurance- Contractor, any subcontractor of any tier, or any supplier performing demolition of any pre-existing structure, or moving, removal, or handling of any hazardous materials, are required to maintain Pollution Liability insurance as follows:</p> <p>1) Coverage can be written on an "occurrence" or "claims-made" basis.</p> <p>2) Coverage can be written on "non-admitted" paper.</p> <p>3) Policy shall be endorsed with Additional Insured Endorsement(s) in compliance with the "Additional Insured" section below.</p>	Please see response for #49
63	<p>Page 65. Chapter VII – Indemnification/Insurance/Risk of Loss. 2. Insurance Requirements. IV. Other. Additional Insured. Please modify item 5 as follows:</p> <p>Commercial General Liability and Umbrella/Excess Liability forms must provide defense coverage for additional insureds. The Additional Insured Endorsement shall provide coverage for Ongoing as well as Products and Completed Operations with no limitation on when claims can be made.</p>	This change is acceptable
64	<p>Contractor and subcontractors of every tier are required to have all insurance policies except Professional Liability endorsed to waive the respective insurance company's rights of recovery against WMATA, and the WMATA Board of Directors.</p> <p>1) Waiver shall be provided on an endorsement that is acceptable to WMATA.</p>	This change is acceptable
65	<p>Page 65. Chapter VII – Indemnification/Insurance/Risk of Loss. 2. Insurance Requirements. IV. Other. Certificate of Insurance. Please modify the first paragraph as follows:</p> <p>Contractor shall provide WMATA an ACORD Certificate of Insurance (COI) and copies of all required endorsements as evidence that the insurance requirements of this Section have been satisfied. Certificates of Insurance shall be sent to WMATA.</p>	This change is acceptable
66	<p>Page 65. Chapter VII – Indemnification/Insurance/Risk of Loss. 2. Insurance Requirements. IV. Other. Certificate of Insurance. Please modify item 1 under "Additionally" as follows:</p> <p>Proposed material modifications to required insurance, including notice of cancellation, must be received by WMATA per policy provisions in writing at least 30 days prior to the effective date of such change or cancellation.</p> <p>REASON: Negotiation of renewal or new policies may occur up to the point of expiration of the current policy.</p>	RISK only requires notice asap of any material changes in policy that would affect coverage in the manner presented at time of contract signing
67	<p>Page 66-68. Chapter VIII – Intellectual Property Rights. 4. Rights in Technical Data – Unlimited. Please indicate this clause as not applicable to this procurement. The defined technical data is not being provided as a part of the scope of this RFP.</p>	Not necessary to remove any wording that isn't applicable
68	<p>Page 87. Mid-Atlantic Cooperative Rider Clause. Please identify the number of current other entities that have cooperative agreements originating from WMATA.</p>	If a contract is awarded for this requirement the Contractor may agree to extend contract terms to other entities that participate in Mid Atlantic Purchasing term a list of participating can be found on the web site identified in the Rider Clause
69	<p>Page 89. Technical Specifications. Please confirm that WMATA employees will continue to install and uninstall tire assemblies from vehicles.</p>	WMATA employees will continue to install and uninstall tire assemblies from vehicles.
70	<p>Page 89. Technical Specifications. Background. Please modify the third paragraph as follows:</p> <p>No bus shall be kept from next day revenue service due to unavailable mounted stock in the ready rack tire maintenance</p>	Recommendation Denied
71	<p>Page 90. Technical Specifications. 2.0 Contractor's Tire Responsibilities. 2.2.9. Please modify the TP label will be consistent with the vehicle placard.</p>	Please advise anyone who is asking about the tire pressures on our buses of the following.
72	<p>Page 90. Technical Specifications. 3.0 Contractor's Wheel Responsibilities. 3.1.1. Please list the minor wheel repairs expected of the contractor.</p>	The tires should be filled to and maintained to the Tire Pressure Label located on the outside of the vehicle at each axle location.
73	<p>Page 90. Technical Specifications. 3.0 Contractor's Wheel Responsibilities. Please modify 3.1.3 as follows:</p> <p>The Contractor must refurbish steel wheels on a minimum of 500 buses per year. Refurbishing will not exceed two (2) weeks per wheel. The Contractor is responsible for transporting wheels from WMATA to its facility for wheel refurbishing, and returning the wheels to WMATA when finished. All costs and logistics associated with the transporting of wheels will be the responsibility of the Contractor.</p> <p>REASON: WMATA currently has less than 500 buses with steel wheels in service. Also the Price Schedule as 25 per year listed.</p>	Modification is approved, WMATA has only 50 buses with steel wheels.
74	<p>Page 92. Technical Specifications. 4.0 Contractor's Tire and Wheel Reporting. Please remove 4.2 item (- Provide tire mileage for each type of tire in the fleet- WMATA does not require individual serialization of tires and does not provide tire change information to generate this item. WMATA already provides total miles to the contractor</p>	(This would only apply to checking the tire pressure on the bus parking lots. The tires should all be filled to 130 psi, and will then be adjusted as necessary when the tires are installed onto buses by BMNT personnel.)

75	<p>Page 93. Technical Specifications. 5.0 Contractor's Employees. Please modify paragraph 5.2 as follows:</p> <p>Contractor shall provide a minimum of fifteen (15) fourteen (14) full-time Contractor employees, or as many employees to meet the needs of the Bus Divisions listed herein, working a normal forty (40) hour week Monday through Friday 6:30 am to 3:00 pm to service the tires on WMATA property, exclusively. Employees will be assigned to Bus Divisions in accordance with Bus Division demands. The staff shall consist of a minimum of thirteen (13) tire service mechanics and one (1) Supervisor. The Supervisor shall be responsible for managing all of the Contractor's Employees at all WMATA Divisions. The number of tire service personnel assigned to this Contract/Lease may be increased or decreased by mutual agreement between the Authority and the Contractor.</p> <p>REASON: WMATA is increasing locations in this RFP.</p>	WMATA/BMNT will be responsible for the integrity of the information listed on the labels with respect to the VIN Tag attached to the interior of the vehicle
76	Page 93. Technical Specifications. 5.0 Contractor's Employees. 5.4. Please confirm the forklift training is provided at no additional cost to the contractor.	The forklift training is provided at no cost to the contractor
77	Page 93. Technical Specifications. 6.0 Tire and Miscellaneous Situation Specifications. 6.2 Run Out Provisions. As WMATA does not currently provide tire changes, how does WMATA plan to handle tires from two suppliers during a run-out in order for providers to provide accurate billing?	See section 6.2.2 of the RFP- Technical Specification
78	Page 93. Technical Specifications. 6.0 Tire and Miscellaneous Situation Specifications. 6.2 Run Out Provisions. 6.2.2. Please confirm if the successful offeror would be required to charge their lease rates on purchased tires from the current provider.	This is a negotiated procurement and this matter may be negotiated and agreed prior to award of a new contract.
79	Page 94. Technical Specifications. 6.0 Tire and Miscellaneous Situation Specifications. 6.6 Liquidated Damages. Please modify 6.6.1 as follows:	
	Liquidated damages shall be assessed if a bus is unable to return to revenue service due to the unavailability of contractor tires or tire service resulting from the acts or omissions of Contractor, a sum of \$359.44 for each bus for each calendar day of delay. Please see Chapter II, Article -8 Liquidated Damages.	OK
80	Page 95. Technical Specifications. 6.0 Tire and Miscellaneous Situation Specifications. 6.9 Sold Buses. Please confirm that WMATA will purchase usable tires in the event that both scrap tires and no-value tires are unavailable.	The contractor should provide no-value tires for scrap buses
81	Page 97. Technical Specifications. Location of work and any constraints. Please confirm that the 600 North Royal Street no longer requires service or will not by contract start.	The 600 North Royal Street location will no longer require tire service.
82	Chapter II – Time Delays/Liquidated Damages, Page 41, Extensions of Time/Force Majeure. Please add the following language in the appropriate area of this section 1) "lack of or inability to obtain raw materials"; 2) "Notwithstanding any language in the Contract to the contrary, except for payment obligations, the Parties shall not be liable for a failure to perform where such performance is prevented by unforeseen causes or events beyond their reasonable control and without their fault or negligence."	No. The risk of nonperformance due to supplier difficulties is a risk assumed by the contractor/lessor in a fixed price contract/lease.
83	Chapter V - Invoices/Payments/Deductions, Page 53 Billing and Payment. Please confirm that the Transit will supply a mileage report by bus in Excel format to the Contractor by the 10th of each month, for miles run the previous month, or clarify how monthly mileage billing is calculated	Report will be supplied in Excel format as described.
84	Chapter VI – Contract Termination/Stop Work Orders/Disputes, Termination for Convenience, Page 57. Please consider making Termination for Convenience mutual.	No. There is no right of a private entity to terminate a government contract for convenience as this is an exclusive remedy of the government. WMATA does not intend to create any new contractual remedies for private entities.
85	Page 60. Chapter VI – Contract Termination/Stop Work Orders/Disputes. Assignment. Please add the following verbiage to the Assignment language: Nothing herein shall prohibit the delivery of products pursuant to this Agreement by Seller's authorized independent dealers. This Agreement and any right hereunder or interest herein may be assigned at any time by Seller to its affiliates. Seller may assign any right to receive payment to a third party.	No. No rights under this Contract/lease may be assigned without the written approval of the Contracting Officer.
86	Chapter VII – Indemnification/Insurance/Risk of Loss. Page 62. Indemnification. Please consider changing the first paragraph (a) to read: Contractor shall indemnify, defend and hold harmless the Authority, its Board members, employees and agents, from all liabilities, obligations, damages, penalties, claims, costs, charges and expenses (including reasonable attorneys' fees), of whatsoever kind and nature for injury, including personal injury or death of any person or persons, and for loss or damage to any property, including the property of the Contractor and the Authority, occurring in connection with, or in any way arising out of the use, occupancy and performance of the work and/or any acts in connection with activities to be performed under this Contract/Lease, unless the loss or damage is due to the sole negligence of the Authority. Nothing in the preceding sentence shall be deemed to relieve Contractor from ultimate liability for any of its obligation under this Contract/Lease.	Recommendation Denied
87	Chapter VII – Indemnification/Insurance/Risk of Loss. Minimum Required Insurance: Minimum Insurance Coverages and Coverage Provisions. Page 63. Please consider removing this paragraph in its entirety: Upon written request from WMATA, contractor shall provide copies of any requested insurance policies, including applicable endorsements, within five (5) business days of such request.	May be addressed upon contract award notice
88	Chapter VII – Indemnification/Insurance/Risk of Loss. Page 64. Please change paragraph 5 to read: If applicable, The definition of Insured Contract/Lease shall be modified to provide coverage for any Contracts/Leases involving construction or demolition operations that are within 50 feet of a railroad, and sidetrack agreements	Not necessary to remove any wording that isn't applicable.
89	Page 64. Chapter VII – Indemnification/Insurance/Risk of Loss. Please remove paragraph (6) in its entirety as it is not applicable. Non-Owned Disposal Site (NODS) Endorsement providing coverage for the Contractor's legal liability arising out of pollution conditions at the designated non-owned disposal site.	Not necessary to remove any wording that isn't applicable.
90	Page 64. Chapter VII – Indemnification/Insurance/Risk of Loss. Please consider removing the Pollution Liability Insurance requirement as it is not applicable.	Not necessary to remove any wording that isn't applicable.

91	Chapter VII – Indemnification/Insurance/Risk of Loss. Other/Additional Insured. Page 65. Please change paragraph 2 to read: Coverage provided to Additional Insured shall be primary and non-contributory to any other insurance available to the Additional Insured as it pertains to Contractor's negligence, including coverage afforded to the WMATA as an additional insured by subcontractors, and from other third parties.	Not necessary to remove any wording that isn't applicable.
92	Chapter VII – Indemnification/Insurance/Risk of Loss. Other/Additional Insured. Page 65. Please delete paragraphs 4 & 5: 4) Coverage available to any Additional Insured under the products and completed operations hazard can only be limited to the applicable statute of repose in the jurisdiction(s) where the contract/lease scope of work takes place. 5) Commercial General Liability and Umbrella/Excess Liability forms must provide defense coverage for additional insureds. The Additional Insured Endorsement shall provide coverage for Ongoing as well as Products and Completed Operations with no limitation on when claims can be made.	Recommendation denial
93	Part III - Technical Specifications. Contractor's Tire Responsibilities. Page 89 Paragraph 2.2.7). Please change the first sentence to read: Supply scrap tires, if available, to WMATA in quantities sufficient to support the buses scheduled for disposal, and provide new tires for buses being purchased.	The contractor should supply scrap or No-Value tires for scrap buses.
94	Part III- Technical Specifications. Contractor's Employees. Page 93 Paragraph 5.2. Do the proposed number of employees allow for the opening of the Cinder Bend and Andrews facilities identified in the Amendment as opening in 2018?	Contractor should supply enough personnel to service all locations listed on p. 97 of the RFQ-Technical Specification
95	Part III – Technical Specifications. Page 93 Paragraph 6.1. Please accept the Michelin 305/70R22.5 X In City Z as an approved equal. It is "L" rated, and has a Maximum Speed Rating of 65 MPH.	See Amendment A004 Brand Name of Equal Product Clause
96	Will the monthly mileage and vehicle usage report be provided in Excel format?	Yes, report will be provided in an Excel format.
97	Would the Transit consider reporting brand number, wheel position, and tread depth of tires by bus for work done by the Transit?	WMATA will not provided this data.
98	Will Contractor Service Personnel be required to drive the Transit's buses?	No, contractor personnel will not be required to drive any buses.
99	What are your current lease rates per tire size?	WMATA will not provided this information.
100	What is the current monthly service rate being paid?	WMATA will not provided this information.
101	What is the anticipated start date of the contract?	The existing contract expires 3/31/18
102	What is your current rate per wheel for painting/powder coating?	WMATA will not provided this information.
103	Please confirm that all shops are supplied with compressed air and electricity for tire work.	All shops are supplied with compressed air and electricity for tire work. All Bus Division tire shop areas have compressed air and electricity, but the requirements of Section 2.2.9 are still applicable as they apply to the supply of compressed air for filling tires to required pressure.
104	Pages 7-11. Price Schedule. Proposed Equal. Please review attached specifications/bulletin which meets the Tire & Rim Association, Inc. standards; OE vehicle manufacturer's requirements; and operating conditions for the application: a) Description: 305/70R22.5 Brand Name/Model: R192 Manufacturer of Equal: Bridgestone Model No. of Equal: 305/70R22.5 b) Description: 305/75R24.5 Brand Name/Model: CTR Manufacturer of Equal: Firestone Model No. of Equal: 285/80R24.5	See Amendment A004 for Equal Product Specification language
105	RFP Solicitation Instructions, Section 21; Page 20. CONTRACT/LEASE AWARD. a) Please confirm a new supplier will have a minimum of thirty (30) days to mobilize the contract. b) Please confirm that the contract between the awarded bidder and WMATA shall include all documents mutually entered into at the time of contract award, specifically including the contract document, the solicitation, and the response to the solicitation. The contract must include, and be consistent with, the specifications and provisions stated in this solicitation provided, that the terms and conditions of such resulting contract shall control over any inconsistent terms set forth herein. c) Please further confirm that the use or exchange of any document, including, but not limited to, delivery receipts, purchase orders, order acknowledgements, or other documentation from time to time in connection with the ordering or supply of goods shall be deemed to be only for the administrative convenience of the parties and the terms and conditions of this Contract shall supersede and take precedence over any inconsistent, different, or additional terms and conditions printed on the front or reverse side of such documents, whether or not such documents refer to this Contract. Under no circumstances shall any term or condition contained in any such document that is inconsistent with, different from or additional to any term or condition in this Contract become part of this Contract or otherwise become binding on Contractor. d) If a Purchase Order or Terms and Conditions of the Contract may be part of the contract award, please provide a copy of the entire purchase order text and such Terms and Conditions to allow bidders an opportunity to review language for compliance and/or to allow opportunity for clarifications/changes.	Upon award of Contract and Lease Agreement; these stated document will take precedence.

106	RFP Solicitation Instructions, Section 29; Page 22. REQUEST FOR RECORDS. Please confirm that any audit, inspection or cost realism analysis of records will be limited to applicable non-proprietary information at mutually agreeable times (30 days prior written notice) and at the sole expense of the Authority. Corporate policy restricts disclosure of commercial or proprietary cost components which could negatively impact the Company's ability to compete; however, bidders will assist in a price analysis to substantiate the fairness and reasonableness of our quoted pricing.	The Request for Records clause deals with production of records under WMATA's Public Access to Records Program. It has nothing to do with audits and inspections.
107	Chapter I Terms and Conditions, Section 8; Page 35. Audit, Availability, and Inspection of Records. Please confirm that any audit, inspection or cost realism analysis of records will be limited to applicable non-proprietary information at mutually agreeable times (30 days prior written notice) and at the sole expense of the Authority. Corporate policy restricts disclosure of commercial or proprietary cost components which could negatively impact the Company's ability to compete; however, bidders will assist in a price analysis to substantiate the fairness and reasonableness of our quoted pricing.	Answer will be provided during any discussions/negotiations with
108	Chapter II, TIME/DELAYS/LIQUIDATED DAMAGES, Section 4; Page 40. OPTION TO EXTEND TERMS OF THE CONTRACT. Subparagraph a. Please confirm that the Authority's right to extend the contract by exercising this option is only exercisable upon mutual written consent, or, alternatively, will be conditioned upon availability and pricing.	- WMATA will give the Contractor reasonable notice of intent to exercise the Option performance term. Prices for the options will be evaluated at time and included in contract as negotiated and agreed upon. WMATA has a unilateral right to exercise Optional Performance terms.
109	Chapter II, TIME/DELAYS/LIQUIDATED DAMAGES, Section 6; Page 40. Please remove this section in its entirety.	we state that the contract/lease may be extended beyond the option years, upon agreement of the parties, for a reasonable length of time to allow for a new procurement to occur?
110	Chapter II, TIME/DELAYS/LIQUIDATED DAMAGES, Section 7; Page 41. Please add "raw material shortage" in between "floods," and "strikes" in the next to last line of this section.	No. The risk of nonperformance due to supplier difficulties is a risk assumed by the contractor/lessor in a fixed price contract/lease.
111	Chapter III - Acceptance/Inspections/Deficiencies, Section 8; Page 45. Please add the following as a new subsection (f) at the end of this section: Any access to Contractor's records and reports pursuant to this section shall be upon reasonable advanced notice, during normal business hours and at the sole cost and expense of the accessing party.	There is no section 8 or 9 on p. 45 of the RFP- Technical Specification
112	Chapter III - Acceptance/Inspections/Deficiencies, Section 9; Page 45. Please add the following to the end of this section: In the event of the unavailability of funding, the Authority, upon termination, will pay for all unused mileage in the relevant tires and take title to such tires "as is".	No. If there is no funding, there is no further obligation..
113	Chapter III - Acceptance/Inspections/Deficiencies, Section 4(f)(2); Page 47. Please add "endeavor to" between "shall" and "be" in this section.	This can be discussed during discussions/negotiations with Firms considered to be in the competitive range.
114	Chapter III - Acceptance/Inspections/Deficiencies, Section 6; Page 47. Correction of Deficiencies. Please add to the end of the first sentence: "...one year after acceptance during the supply portion of the contract." REASON: During the run out portion of the contract, the purpose is to run out remaining value in tires and not replace a tire.	This can be discussed during discussions/negotiations with Firms considered to be in the competitive range.
115	Chapter IV - Changes/Pricing Adjustments, Section 1; Page 50; Change Orders. Subparagraph a. Please amend end of the paragraph to read: "...in any one or more the following within thirty (30) days of written notice:"	WMATA will not agree to limit change orders to only those where 30 days written notice is required.
116	Chapter IV - Changes/Pricing Adjustments, Section 3(e); Page 52. Please add the following at the end of this section: Any access to Contractor's records and reports pursuant to this section shall be upon reasonable advanced notice, during normal business hours and at the sole cost and expense of the accessing party.	No. If the Contractor wants WMATA to consider a Request for Equitable Adjustment, it has to make records available without cost to WMATA.
117	Chapter V - Invoices/Payments/Deductions, SECTION 1; Page 53. Billing and Payments. Subparagraph a. Please insert at beginning of paragraph: "Within thirty (30) days of delivery."	Payment will be made with thirty days from receipt of satisfactory services and an approved invoice. (Language remain as stated in the solicitation)
118	Chapter VI - Contract Termination/Stop Work Orders/Disputes, Section 1(d); Page 55. Please add the following as a new subsection (d) at the end of this section: Notwithstanding the foregoing, the Authority shall still be responsible for payment for any mileage incurred on tires leased hereunder during the stop work period.	It depends on the reason why the work is stopped. If it is for a contractor default, then WMATA would not be liable.
119	Chapter VI - Contract Termination/Stop Work Orders/Disputes, Section 2(e); Page 56. Please add the following to the end of the first sentence of this sectionincluding payment for the remaining value of tread on leased tires mounted on buses and in spare stock.	Generally, if there is a default, we only pay for supplies delivered and accepted.
120	Chapter VI - Contract Termination/Stop Work Orders/Disputes, Section 3; Page 57. TERMINATION FOR CONVENIENCE. Subparagraph a. a) In line 1, following "in whole" please delete "or in part". b) In line 3, please insert "thirty (30) days in advance written" after "delivering".	Request is denied
121	Chapter VI - Contract Termination/Stop Work Orders/Disputes. Section 3(n); Page 60. Please add the following as a new subsection (n) at the end of this section: Notwithstanding anything herein to the contrary, the Authority shall pay for all unused mileage in the relevant tires and in spare stock upon termination of this pursuant to this Section 3.	Generally, if there is a default, we only pay for supplies delivered and accepted.
122	Chapter VI - Contract Termination/Stop Work Orders/Disputes Section 3(o); Page 60. Please add the following as a new subsection (o) at the end of this section: If the Authority fails to make any payment due or to perform any obligation under this Contract, the Contractor may, at its option and without waiving or limiting any of its other rights or remedies under this Contract or at law, declare all of the Authority's indebtedness and obligations to the Contractor to be immediately due and payable and may immediately terminate this Contract by giving written notice to the Authority to that effect. Upon termination of this Contract for default by the Authority, the Contractor shall be paid its close out costs including the remaining value of tread on leased tires mounted on buses and in spare stock.	No. The Contractor may not accelerate damages. If there is a termination for default, then the contractor does not get its costs paid.

123	Chapter VI – Contract Termination/Stop Work Orders/Disputes. Section 5; Page 61. Please delete this section in its entirety and replace it with the following: The Authority and Contractor intend to resolve all disputes under this Contract to the best of their abilities in an informal manner. Contractor shall not be bound by any decision of the Authority nor shall Contractor be required to exhaust all administrative remedies before commencing litigation in a court of competent jurisdiction within the state in which the Authority is located. Notwithstanding any provision of this section, or any other provision of this Contract, it is expressly agreed and understood that any court proceeding arising out of a dispute under this Contract shall be heard by a court de novo and the court shall not be limited in such proceeding to the issue of whether the Authority acted in an arbitrary, capricious or grossly erroneous manner.	No. This is not the legal standard of review for an agency level decision.
124	Chapter VII – Indemnification/Insurance/ Risk of Loss. Section 2; Part 1; Page 63. a) Please remove the \$1,000,000 requirement for Products- Completal Operations Limit. This is included in the Commercial General Liability. b) Please increase the Business Auto Liability to \$1,000,000 c) Please remove the \$1,000,000 Pollution Liability	Again, we refer back to question #49B. Once RISK receives further clarification on how/where the used tires are disposed, we can then have further discussion on the removal of the Pollution requirement. As to limits, those indicated are sufficient and don't need to be changed.
125	Chapter VII – Indemnification/Insurance/Risk of Loss. Section 2; Part 3; Page 64 a) Number 3-4 under Commercial General Liability; Contractor will accept Waiver of Subrogation with added language...."except in cases of Authority negligence." b) Number 6 under Commercial General Liability; Please remove "and out" prior to "inside of policy limits.....". Contractor does not provide defense costs outside of policy limits. c) Number 2-3 under Business Automobile Liability; Contractor will accept Waiver of Subrogation with added language...."except in cases of Authority negligence." d) Number 6 under Business Automobile Liability; Please remove this section entirely. e) Pollution Liability Insurance; Please remove this clause entirely.	This is a RISK question. Per entire indemnity language wording, RISK isn't asking to be indemnified nor requesting vendor to waive subrogation rights to any losses that our due to our negligence. No other language will be altered/deleted.
126	Chapter VII – Indemnification/Insurance/Risk of Loss. Page 65. Section 2; Part 4; Page 65; Waiver of Subrogation. Contractor will accept Waiver of Subrogation with added language...."except in cases of Authority negligence."	Same response as #124
127	Chapter VIII, Page 66. Please remove this Chapter in its entirety- IP rights are not applicable in a tire lease.	OK
128	Chapter IX – Additional Covenants/Legal Requirements. Section 17; Page 77. Random Drug Testing Program. Confirm Contractor's personnel will be included in WMATA's random drug program and advise of the cost, if any.	See Amendment A004 Criminal Background Screening FAQs - To be eligible for a WMATA issued identification and access badge ("One Badge"), a contractor shall have the sole responsibility for, and shall assure, adequate criminal background screening on a routine basis of all of its personnel who will be working on WMATA's premises or otherwise have access to WMATA's customers, property, or confidential information. The contractor shall contract with, or otherwise engage, a reputable third-party vendor to conduct the required criminal background screenings, and provide the vendor with a copy of its criminal background check screening policies and procedures. All required criminal background check screening of contractor's personnel shall take into consideration (1) the nature of the services or work being performed with particular regard for the individual's access to, and interaction with, WMATA's customers, property, and confidential information; (2) the nature or gravity of the offense or conduct resulting in the criminal conviction; and (3) the time that has lapsed since the offense, conduct and/or completion of the sentence. For information purposes only, a copy of WMATA's Criminal Background Checks Policy is included with this notification.
129	Part III - Technical Specifications. Section 2.2.7 Page 89. Contractor Tire Responsibilities. After "scrap tires" please insert ", if available." REASON: Timing may be an issue for a new supplier who will not have sufficient scrap tires available; however, the outgoing supplier, who is responsible for scrap tire removal during run out, would be able to supply tires.	Contractor should be able to supply scrap or No-Value tires
130	Part III Technical Specifications. Section 2.2.9; Page 90. Contractor Tire Responsibilities. a) What type of air compressors are required? b) Will transit assist with electric setup, if necessary? c) Is air pressure maintenance performed in a garage or fixed location or must the compressor be mobile? d) Is the Contractor required to provide a service truck?	a) Compressors should be able to fill tires to required pressure. b) Electricity is already present in each location, but attempts will be made to set up/install non-mobile equipment. c) Tire pressure checks are done in the bus parking area at each Bus Division lot. Contractor must be able to adjust tire pressure up or down to meet the pressure requirements. d) See section 5.3. (Applies to moving Employees and tires only. WMATA to provide tow truck service as required to retrieve vehicles in Revenue Service.)

131	<p>Part III Technical Specifications. SECTION 2.2; Page 93. RUN OUT PROVISION.</p> <p>a) Confirm Authority has exercised run out option. b) Please insert: "WMATA will mount and operate run out tires on highest mileage operating buses to insure a run out of tires within the thirty-six (36) month period." c) Please provide the current/run out mileage rate for each tire. d) Subparagraph c (new paragraph). Please add standard tire language: "In lieu of the above run-out option, the Authority will purchase any mileage remaining thereon at the rental rate in effect immediately preceding the expiration date on the basis forth in the contract."</p>	<p>a) No. b) Recommendation Denied c) WMATA will not provide current rates. d) Subject to awarded Contractor/Proposers Lease Agreement.</p>
132	<p>Part III Technical Specifications. Section 6.1; Page 93. regrooved Tires.</p> <p>a) Is Contractor required to regrooved run out tires? b) Confirm Contractor need not regrooved its own tires.</p> <p>Response (BUS)</p>	<p>a) see section 6.2.1 of the RFP- Technical Specification b) see section 2.1 of the RFP- Technical Specification (Type-B tires are currently in Service on a limited number of buses) b. Contractor will need to ensure Type B tires are available to support the fleet</p>
133	<p>Part III. Technical Specifications. Section 6.2.2; Page 94. Please remove this clause in its entirety.</p>	<p>Recommendation Denied</p>
134	<p>Part III. Technical Specifications Section 6.6; Page 94. Please remove this clause in its entirety.</p>	<p>Recommendation Denied</p>
135	<p>Part III. Technical Specifications. Section 6.8; Page 95. Damaged/Lost Tires.</p> <p>a) Please clarify "malicious abuse" means abuse by partial or total destruction of a tire by means other than normal wear (cuts and bruises), including but not limited to irregular wear, damage for brake heat, curbing, road hazards, and misalignment. b) Please add paragraph: "WMATA agrees to maintain buses' suspension and steering in accordance with bus manufacturer's alignment specifications, and keep brakes properly adjusted."</p> <p>Please Please confirm WMATA will provide the following:</p>	<p>A. Malicious abuse will not be applied to alignment issues B. Recommendation Denied</p>
136	<p>a) Install/remove tire assemblies to the buses and provide daily tire change tags or tire movement report to runout and current contract suppliers. b) Provide emergency road call service. c) Exercise ordinary care in the use of all tires furnished hereunder and in operating, storing and parking its busses equipped with Contractor's tires so that none of said tires may be subjected to misuse. d) Maintain buses' suspension and steering in accordance with bus manufacturer's alignment specifications, and keep brakes properly adjusted. e) Furnish secured indoor space for storing and servicing the tires covered by this contract at no charge to Contractor. f) Keep the actual beginning and end hubometer mileage for each vehicle each month and shall furnish the Contractor with an accurate list of each vehicle showing (a) active vehicles, (b) new vehicles put into service during the month, with the start service date and (c) old vehicles removed from service during the month, with the date of removal from service and the actual beginning and end hubometer mileage for each vehicle and tire change information for any lease-to-nonlease or nonlease to lease tires. g) Monthly vehicle miles by bus will be sent to the Contractor by the 10th of the following month to be used by Contractor in computing the monthly billing.</p>	<p>a) Tire change tags will not be supplied by WMATA. b) Road call service will be provided by WMATA. c) Tire use and bus parking will be carried out in accordance with WMATA SOPs and best practices. d) Buses will be maintained according to WMATA SOPs e) Covered storage will be provided. f) No. g) Yes.</p>