



This addendum is added to and is to be considered part of the subject contract.

**ADDENDUM TO
STATE OF OKLAHOMA CONTRACT
RESULTING FROM SOLICITATION NO. 0900000520**

This Addendum (“Addendum”) is an Amendment to the Contract awarded to QCU LLC dba Quality Custom Upfitters (“Vendor”) in connection with Solicitation #0900000520 (“Solicitation”) and is effective the date of the required signature page.

Purpose

The State issued a Solicitation to provide vehicle repair facilities to provide statewide vehicle repair services for vehicles owned by State Agencies within Oklahoma. Services are more particularly described in the Solicitation. .

The initial current period begins on April 27, 2022 and is for one year with four one year options to renew this contract..

The addendum will memorialize the parties are agreeing to the additional terms outlined in Exhibit 1 and attached to this addendum..

**SIGNATURE PAGE TO ADDENDUM TO
STATE OF OKLAHOMA CONTRACT
RESULTING FROM SOLICITATION NO. #0900000520**

STATE OF OKLAHOMA

Vendor

By: Dan Sivard

by: Fran Palmer
Fran Palmer (Apr 4, 2022 11:17 CDT)

Name: Dan Sivard

Name: Fran Palmer

Title: State Purchasing Director

Title: Vice-President

Date: Apr 4, 2022

Date: Apr 4, 2022

Exhibit Number 1

A. NO FEDERAL GOVERNMENT COMMITMENT OR LIABILITY TO THIRD PARTIES

A.A.1. Except as the Federal Government expressly consents in writing, the Recipient agrees that:

A.A.1.1. The Federal Government does not and shall not have any commitment or liability related to the Underlying Agreement, to any Third Party Participant at any tier, or to any other person or entity that is not a party (FTA or the Recipient) to the Underlying Agreement, and

A.A.1.2. Notwithstanding that the Federal Government may have concurred in or approved any Solicitation or Third Party Agreement at any tier that may affect the Underlying Agreement, the Federal Government does not and shall not have any commitment or liability to any Third Party Participant or other entity or person that is not a party (FTA or the Recipient) to the Underlying Agreement.

B. False or Fraudulent Statements or Claims.

A.B.1. Civil Fraud. The Recipient acknowledges and agrees that:

A.B.1.1. Federal laws, regulations, and requirements apply to itself and its Underlying Agreement, including the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq., and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. part 31.

A.B.1.2. By executing the Underlying Agreement, the Recipient certifies and affirms to the Federal Government the truthfulness and accuracy of any claim, statement, submission, certification, assurance, affirmation, or representation that the Recipient provides to the Federal Government.

A.B.1.3. The Federal Government may impose the penalties of the Program Fraud Civil Remedies Act of 1986, as amended, and other applicable penalties if the Recipient presents, submits, or makes available any false, fictitious, or fraudulent information.

A.B.2. Criminal Fraud. The Recipient acknowledges that 49 U.S.C. § 5323(l)(1) authorizes the Federal Government to impose the penalties under 18 U.S.C. § 1001 if the Recipient provides a false, fictitious, or fraudulent claim, statement, submission, certification assurance, or representation in connection with a federal public transportation program under 49 U.S.C. chapter 53 or any other applicable federal law.

C. Access to Recipient and Third Party Participant Records.

A.C.1. The Recipient agrees and assures that each Subrecipient, if any, will agree to:

A.C.1.1. Provide, and require its Third Party Participants at each tier to provide, sufficient access to inspect and audit records and information related to its Award, the accompanying Underlying Agreement, and any Amendments thereto to the U.S. Secretary of Transportation or the Secretary's duly authorized representatives, to the Comptroller General of the United States, and the Comptroller General's duly authorized representatives, and to the Recipient and each of its Subrecipients,

A.C.1.2. Permit those individuals listed above to inspect all work and materials related to its Award, and to audit any information related to its Award under the control of the Recipient or Third Party Participant within books, records, accounts, or other locations, and

A.C.1.3. Otherwise comply with 49 U.S.C. § 5325(g), and federal access to records requirements as set forth in the applicable U.S. DOT Common Rules.

D. Federal Changes

A.D.1. The Recipient shall at all times comply with all applicable Federal regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement as amended or promulgated from time to time during the term of this contract.

E. Civil Rights Requirements

- A.E.1.** The Recipient agrees that it must comply with applicable federal civil rights laws, regulations, and requirements, and follow applicable federal guidance, except as the Federal Government determines otherwise in writing. Therefore, unless a Recipient or a federal program, including the Tribal Transit Program or the Indian Tribe Recipient, is specifically exempted from a civil rights statute, FTA requires compliance with that civil rights statute, including compliance with equity in service.
- A.E.2.** Nondiscrimination in Federal Public Transportation Programs. The Recipient agrees to, and assures that it and each Third Party Participant, will:
 - A.E.2.1.** Prohibit discrimination on the basis of race, color, religion, national origin, sex (including gender identity), disability, or age.
- A.E.3.** Prohibit the:
 - A.E.3.1.** Exclusion from participation in employment or a business opportunity for reasons identified in 49 U.S.C. § 5332,
 - A.E.3.2.** Denial of program benefits in employment or a business opportunity identified in 49 U.S.C. § 5332, or
 - A.E.3.3.** Discrimination identified in 49 U.S.C. § 5332, including discrimination in employment or a business opportunity identified in.
- A.E.4.** Follow:
 - A.E.4.1.** The most recent edition of FTA Circular 4702.1, "Title VI Requirements and Guidelines for Federal Transit Administration Recipients," to the extent consistent with applicable federal laws, regulations, requirements, and guidance, and other applicable federal guidance that may be issued, but
 - A.E.4.2.** FTA does not require an Indian Tribe to comply with FTA program-specific guidelines for Title VI when administering its Underlying Agreement supported with federal assistance under the Tribal Transit Program.
- A.E.5.** Nondiscrimination – Title VI of the Civil Rights Act. The Recipient agrees to, and assures that each Third Party Participant, will:
 - A.E.5.1.** Prohibit discrimination on the basis of race, color, or national origin,
- A.E.6.** Comply with:
 - A.E.6.1.** Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d et seq.,
 - A.E.6.2.** U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964," 49 C.F.R. part 21, and
 - A.E.6.3.** Federal transit law, specifically 49 U.S.C. § 5332, and
- A.E.7.** Follow:
 - A.E.7.1.** The most recent edition of FTA Circular 4702.1, "Title VI Requirements and Guidelines for Federal Transit Administration Recipients," to the extent consistent with applicable federal laws, regulations, requirements, and guidance,
 - A.E.7.2.** U.S. DOJ, "Guidelines for the enforcement of Title VI, Civil Rights Act of 1964," 28 C.F.R. § 50.3, and
 - A.E.7.3.** All other applicable federal guidance that may be issued.
- A.E.8.** Equal Employment Opportunity.
 - A.E.8.1.** Federal Requirements and Guidance. The Recipient agrees to, and assures that each Third Party Participant will, prohibit, discrimination on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin, and:
 - A.E.8.2.** Comply with Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq.,

- A.E.8.3.** Facilitate compliance with Executive Order No. 11246, "Equal Employment Opportunity" September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it in part and is applicable to federal assistance programs,
- A.E.8.4.** Comply with federal transit law, specifically 49 U.S.C. § 5332, as provided in section 12 of this Master Agreement,
- A.E.8.5.** FTA Circular 4704.1 "Equal Employment Opportunity (EEO) Requirements and Guidelines for Federal Transit Administration Recipients," and
- A.E.8.6.** Follow other federal guidance pertaining to EEO laws, regulations, and requirements, and prohibitions against discrimination on the basis of disability,
- A.E.8.7.** Specifics. The Recipient agrees to, and assures that each Third Party Participant will:
- A.E.8.8.** Prohibited Discrimination. Ensure that applicants for employment are employed and employees are treated during employment without discrimination on the basis of their race, color, religion, national origin, disability, age, sexual orientation, gender identity, or status as a parent, as provided in Executive Order No. 11246 and by any later Executive Order that amends or supersedes it, and as specified by U.S. Department of Labor regulations,
- A.E.8.9.** Affirmative Action. Take affirmative action that includes, but is not limited to:
 - A.E.8.9.1. Recruitment advertising, recruitment, and employment,
 - A.E.8.9.2. Rates of pay and other forms of compensation,
 - A.E.8.9.3. Selection for training, including apprenticeship, and upgrading, and
 - A.E.8.9.4. Transfers, demotions, layoffs, and terminations, but
- A.E.8.10.** Indian Tribe. Recognize that Title VII of the Civil Rights Act of 1964, as amended, exempts Indian Tribes under the definition of "Employer," and
- A.E.8.11.** Equal Employment Opportunity Requirements for Construction Activities. Comply, when undertaking "construction" as recognized by the U.S. Department of Labor (U.S. DOL), with:
- A.E.8.12.** U.S. DOL regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60, and
- A.E.8.13.** Executive Order No. 11246, "Equal Employment Opportunity in Federal Employment," September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. § 2000e note.

F. Incorporation Of Federal Transit Administration (FTA) Terms

- A.F.1.** The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in the most current FTA Circular 4220, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any NCTD requests which would cause NCTD to be in violation of the FTA terms and conditions.

G. Energy Conservation

- A.G.1.** The Recipient agrees to, and assures that its Subrecipients, if any, will comply with the mandatory energy standards and policies of its state energy conservation plans under the Energy Policy and Conservation Act, as amended, 42 U.S.C. § 6321 *et seq.*, and perform an energy assessment for any building constructed, reconstructed, or modified with federal assistance required under FTA regulations, "Requirements for Energy Assessments," 49 C.F.R. part 622, subpart C.

H. Right of the Federal Government to Terminate

- A.H.1.** Justification. After providing written notice to the Recipient, the Recipient agrees that the Federal Government may suspend, suspend then terminate, or terminate all or any part of the federal assistance for the Award if:
 - A.H.1.1.** The Recipient has failed to make reasonable progress implementing the Award,

A.H.1.2. The Federal Government determines that continuing to provide federal assistance to support the Award does not adequately serve the purposes of the law authorizing the Award, or

A.H.1.3. The Recipient has violated the terms of the Underlying Agreement, especially if that violation would endanger substantial performance of the Underlying Agreement.

A.H.2. Financial Implications. In general, termination of federal assistance for the Award will not invalidate obligations properly incurred before the termination date to the extent that the obligations cannot be canceled. The Federal Government may recover the federal assistance it has provided for the Award, including the federal assistance for obligations properly incurred before the termination date if it determines that the Recipient has misused its federal assistance by failing to make adequate progress, failing to make appropriate use of the Project property, or failing to comply with the Underlying Agreement, and require the Recipient to refund the entire amount or a lesser amount, as the Federal Government may determine including obligations properly incurred before the termination date.

A.H.3. Expiration of the Period of Performance. Except for a Full Funding Grant Agreement, expiration of any period of performance established for the Award does not, by itself, constitute an expiration or termination of the Award; FTA may extend the period of performance to assure that each Formula Project or related activities and each Project or related activities funded with “no year” funds can receive FTA assistance to the extent FTA deems appropriate.

I. Debarment and Suspension

A.I.1. The Recipient agrees to the following:

A.I.1.1. It will comply with the following requirements of 2 C.F.R. part 180, subpart C, as adopted and supplemented by U.S. DOT regulations at 2 C.F.R. part 1200.

A.I.1.2. It will not enter into any arrangement to participate in the development or implementation of the Underlying Agreement with any Third Party Participant that is debarred or suspended except as authorized by:

A.I.1.2.1. U.S. DOT regulations, “Nonprocurement Suspension and Debarment,” 2 C.F.R. part 1200,

A.I.1.2.2. U.S. OMB regulatory guidance, “Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” 2 C.F.R. part 180, including any amendments thereto,

A.I.1.2.3. Executive Orders No. 12549, “Uniform Suspension, Debarment or Exclusion of Participants from Procurement or Nonprocurement Activity,” October 13, 1994, 31 U.S.C. § 6101 note, as amended by Executive Order No. 12689, “Debarment and Suspension,” August 16, 1989, 31 U.S.C. § 6101 note, and

A.I.1.2.4. Other applicable federal laws, regulations, or guidance regarding participation with debarred or suspended Recipients or Third Party Participants.

A.I.1.3. It will review the U.S. GSA “System for Award Management – Lists of Parties Excluded from Federal Procurement and Nonprocurement Programs,” <https://www.sam.gov>, if required by U.S. DOT regulations, 2 C.F.R. part 1200.

A.I.1.4. It will include, and require each Third Party Participant to include, a similar provision in each lower tier covered transaction, ensuring that each lower tier Third Party Participant:

A.I.1.4.1. Complies with federal debarment and suspension requirements, and

A.I.1.4.2. Reviews the SAM at <https://www.sam.gov>, if necessary to comply with U.S. DOT regulations, 2 C.F.R. part 1200.

A.I.1.5. If the Recipient suspends, debars, or takes any similar action against a Third Party Participant or individual, the Recipient will provide immediate written notice to the:

A.I.1.5.1. FTA Regional Counsel for the Region in which the Recipient is located or implements the Underlying Agreement,

A.I.1.5.2. FTA Headquarters Manager that administers the Grant or Cooperative Agreement, or

A.I.1.5.3. FTA Chief Counsel.

J. Buy America

A.J.1. The domestic preference procurement requirements of 49 U.S.C. § 5323(j), and FTA regulations, "Buy America Requirements," 49 C.F.R. part 661, to the extent consistent with 49 U.S.C. § 5323(j),

K. Disputes, Breaches, Defaults, or Other Litigation

A.K.1. FTA Interest. FTA has a vested interest in the settlement of any violation of federal law, regulation, or disagreement involving the Award, the accompanying Underlying Agreement, and any Amendments thereto including, but not limited to, a default, breach, major dispute, or litigation, and FTA reserves the right to concur in any settlement or compromise.

A.K.2. Notification to FTA. If a current or prospective legal matter that may affect the Federal Government emerges, the Recipient must promptly notify the FTA Chief Counsel, or FTA Regional Counsel for the Region in which the Recipient is located. (1) The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason.

A.K.3. Matters that may affect the Federal Government include, but are not limited to, the Federal Government's interests in the Award, the accompanying Underlying Agreement, and any Amendments thereto, or the Federal Government's administration or enforcement of federal laws, regulations, and requirements.

A.K.4. If the Recipient has credible evidence that a Principal, Official, Employee, Agent, or Third Party Participant of the Recipient, or other person has submitted a false claim under the False Claims Act, 31 U.S.C. § 3729 *et seq.*, or has committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bribery, gratuity, or similar misconduct involving federal assistance, the Recipient must promptly notify the U.S. DOT Inspector General, in addition to the FTA Chief Counsel or Regional Counsel for the Region in which the Recipient is located.

A.K.5. Federal Interest in Recovery. The Federal Government retains the right to a proportionate share of any proceeds recovered from any third party, based on the percentage of the federal share for the Underlying Agreement. Notwithstanding the preceding sentence, the Recipient may return all liquidated damages it receives to its Award Budget for its Underlying Agreement rather than return the federal share of those liquidated damages to the Federal Government, provided that the Recipient receives FTA's prior written concurrence.

A.K.6. Enforcement. The Recipient must pursue its legal rights and remedies available under any third party agreement, or any federal, state, or local law or regulation.

L. Lobbying Restrictions

A.L.1. The Recipient agrees that neither it nor any Third Party Participant will use federal assistance to influence any officer or employee of a federal agency, member of Congress or an employee of a member of Congress, or officer or employee of Congress on matters that involve the Underlying Agreement, including any extension or modification, according to the following:

A.L.1.1. Laws, Regulations, Requirements, and Guidance. This includes:

A.L.1.1.1. The Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352, as amended,

A.L.1.1.2. U.S. DOT regulations, "New Restrictions on Lobbying," 49 C.F.R. part 20, to the extent consistent with 31 U.S.C. § 1352, as amended, and

A.L.1.1.3. Other applicable federal laws, regulations, requirements, and guidance prohibiting the use of federal assistance for any activity concerning legislation or appropriations designed to influence the U.S. Congress or a state legislature, and

A.L.1.2. Exception. If permitted by applicable federal law, regulations, requirements, or guidance, such lobbying activities described above may be undertaken through the Recipient's or Subrecipient's proper official channels.

M. Clean Air Act

A.M.1. (42 U.S.C. §§ 7401 – 7671q.) and the Federal Water Pollution Control Act (33 U.S.C. §§ 1251 – 1387), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. §§ 7401 – 7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. §§ 1251 – 1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

N. Clean Water

A.N.1. The Common Grant Rules specifically prohibit the use of facilities included in the EPA “List of Violating Facilities,” in the performance of any third party contract at any tier exceeding \$100,000. The contractor must also comply with all applicable standards, orders, or regulations issued under Section 508 of the Clean Water Act, as amended, 33 U.S.C. Section 1368, and other applicable requirements of the Clean Water Act, as amended, 33 U.S.C. Sections 1251 through 1377.

O. Cargo Preference.

A.O.1. Use of United States-Flag Vessels. The shipping requirements of 46 U.S.C. § 55305, and U.S. Maritime Administration regulations, “Cargo Preference – U.S.-Flag Vessels,” 46 C.F.R. part 381, and

P. Disadvantaged Business Enterprises

A.P.1. The Recipient acknowledges and understands that the statutory and regulatory provisions relating to disadvantaged business enterprises (DBE) differ significantly between FTA and FRA, including Section 1101(b) of the FAST Act (23 U.S.C. § 101 note) and U.S. DOT regulations, “Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs,” 49 C.F.R. part 26, both of which apply to FTA, but not to FRA.

A.P.2. FRA is not authorized to use FTA’s DBE regulations, and consequently the Recipient agrees to comply with the statutory and regulatory DBE provisions that apply to federal assistance provided by FTA when using that federal assistance for purchases.

A.P.3. The Recipient agrees to use the “contracting with small and minority firms, women's business enterprise” provisions of the applicable U.S. DOT Common Rules.

Q. Prompt Payment and Return of Retainage

A.Q.1. The entity utilizing this Contract declines to hold retainage from prime contractor and requires a contract clause obligating the prime contractor to make prompt and full payment of any retainage kept by a prime contractor to the subcontractor within 30 days after the subcontractor’s work is satisfactorily completed.

R. RECYCLED PRODUCTS

A.R.1. 42 U.S.C. 6962

A.R.2. 40 CFR Part 247

A.R.3. Executive Order 12873

A.R.4. Applicability to Contracts: The Recycled Products requirements apply to all contracts for items designated by the EPA, when the Recipient procures \$10,000 or more of one (1) of these items during the fiscal year, or has procured \$10,000 or more of such items in the previous fiscal year, using Federal funds.

A.R.5. Flow down Requirements: These requirements flow down to all recipient and sub-recipient tiers.

A.R.6. Recovered Materials - The Recipient agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247. The recipient agrees to comply with the U.S. Environmental Protection Agency (US EPA), “Comprehensive Procurement Guideline for Products Containing Recovered Materials,” 40 CFR part 247.

S. ADA ACCESS REQUIREMENTS

A.S.1. 49 U.S.C. § 5301, 29 U.S.C. § 794, 42 U.S.C. § 12101

A.S.2. Applicability to Contracts: The Recipient shall comply with 49 USC 5301(d), stating Federal policy that the elderly and persons with disabilities have the same rights as other persons to use mass transportation services and facilities and that special efforts shall be made in planning and designing those services and facilities to implement that policy. Recipient shall also comply with all applicable requirements of Sec. 504 of the Rehabilitation Act (1973), as amended, 29 USC 794, which prohibits discrimination on the basis of handicaps, and the Americans with Disabilities Act of 1990 (ADA), as amended, 42 USC 12101 et seq., which requires that accessible facilities and services be made available to persons with disabilities, including any subsequent amendments thereto.

SW0767_Addendum1_Federal Terms_QCU

Final Audit Report

2022-04-04

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