

## **APPENDICES**

The following appendices are available online at [www.trb.org](http://www.trb.org) by searching for TCRP LRD 51.

Appendix A: Transit Agencies Responding to the Survey

Appendix B: Survey

Appendix C: Summary of Transit Agencies' Responses to the Survey

Appendix D: Checklist of Clauses for Technology Contracts

Appendix E: Escrow Agreement

Appendix F: Nondisclosure/Confidentiality Agreement

**TRANSIT AGENCIES RESPONDING TO THE SURVEY**

1. ABQ Ride, Albuquerque, N.M.
2. Ann Arbor Area Transportation Authority
3. Antelope Valley Transit Authority
4. Alameda-Contra Costa Transit District
5. Brockton Area Transit Authority
6. Cape Ann Transportation Authority
7. Capital Area Transportation Authority
8. Capital Metropolitan Transportation Authority
9. Central Florida Regional Transportation Authority, d/b/a LYNX
10. Centre Area Transportation Authority
11. City of Billings-MET Transit
12. Cobb County Department of Transportation
13. Connecticut Department of Transportation
14. Des Moines Area Regional Transit Authority
15. Flint Mass Transportation Authority
16. Fort Worth Transportation Authority
17. Golden Empire Transit District
18. Golden Gate Bridge Highway and Transportation District
19. Go Transit
20. Greater Cleveland Regional Transit Authority
21. Greater Peoria Mass Transit District
22. Jacksonville Transportation Authority
23. Los Angeles County Metropolitan Transportation Authority
24. Louisiana Department of Transportation and Development/Public Transportation
25. Manchester Transit Authority
26. Maryland Transit Administration

27. Mass Transportation Authority
28. Metropolitan Atlanta Rapid Transit
29. Metropolitan Transit Authority
30. Middletown Transit District
31. Milford Transit District
32. Milwaukee County Transit System
33. Muskegon Area Transit System
34. Northeast Illinois Regional Commuter Railroad
35. Norwalk Transit District
36. Ohio Valley Regional Transportation Authority
37. Omnitrans
38. Pee Dee Regional Transportation Authority
39. Rockford Mass Transit District
40. Salem-Keizer Transit
41. Sandag
42. San Diego Metropolitan Transit System
43. Shoreline Metro
44. Sioux Area Metro
45. Stark Area Regional Transit Authority (SARTA)
46. Southwest Ohio Transit Authority
47. Toledo Area Regional Transit Authority
48. Topeka Metropolitan Transit Authority
49. Transit Authority of Northern Kentucky
50. Tri-County Metropolitan District of Oregon, TriMet
51. Utah Transit Authority
52. Washington Metropolitan Area Transit Authority



**SURVEY QUESTIONS**

If you prefer an electronic copy of the survey, please contact the Thomas Law Firm  
by email at: [lwthomas@cox.net](mailto:lwthomas@cox.net)

**TCRP J-5, Study Topic 16-04, TECHNOLOGY CONTRACTING FOR  
TRANSIT PROJECTS**

Agency Name: \_\_\_\_\_

Address: \_\_\_\_\_

Name of Employee: \_\_\_\_\_

Job Title: \_\_\_\_\_

Contact telephone/ cell phone number: \_\_\_\_\_

Email address: \_\_\_\_\_

Educational Background: \_\_\_\_\_

Legal Training: YES NO (If “yes” describe) \_\_\_\_\_

How many years have you been with the agency? \_\_\_\_\_

**Note:**

The term technology is defined broadly for the purpose of the survey. The term embraces any technology that comes within the meaning of computer science and engineering, information systems, and information technology.

1. In the past 5 years has your agency been involved in the design, development, and/or procurement of technology that your agency regards as a significant project because of its cost, scope, complexity, and/or objectives?

**Please circle Yes No**

If your answer to question 1 is “Yes,” please answer the following questions and/or respond to the following requests. Please use additional sheets of paper as needed to respond.

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2. In regard to question 1, please identify and describe the technology project(s) that your agency has designed, developed, and/or procured in the past 5 years.

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3. For the technology project(s) identified in response to question 2, who designed or developed your agency's project(s)?

a) Your agency's employees? **Please circle Yes No**

b) An independent contractor? **Please circle Yes No**

c) Other? **Please circle Yes No**

4. If your agency entered into a contract with an independent contractor for the technology project(s) identified in response to question 2 did your agency at the conclusion of the project(s):

a) Hold all rights in the technology? **Please circle Yes No**

b) Hold limited rights in the technology pursuant to a license or other agreement? **Please circle Yes No**

c) Hold limited rights in the technology pursuant to an agreement other than a purchase agreement, license, or assignment?

**Please circle Yes No**

If your agency's answer is "Yes" to question 4(a), (b), and/or (c), please provide a copy of or a link to any agreement, license, or assignment, including any terms and conditions that were part of the parties' contractual relationship.

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5. For your agency's technology project(s) identified in response to question 2 did your agency's contract specify the use of:

a) Off-the-shelf software? **Please circle Yes No**

b) Open source software? **Please circle Yes No**

c) Custom built or customized software? **Please circle Yes No**

6. For any of your agency's technology project(s) identified in response to question 2 what method of contracting was used for project-delivery:

a) A traditional design-bid-build contract? **Please circle Yes No**

b) A design-build or another form of alternative method of contracting? **Please circle Yes No**

In regard to question 6(a) and/or (b), please provide details and a copy of or a link to the agreements, including any terms and conditions and other documents that are part of the parties' contractual relationship.

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7. Did your agency's technology project(s) identified in response to question 2, whether as part of the technology contract or as a separate contract, include:

a) Maintenance and support? **Please circle Yes No**

b) A service level agreement? **Please circle Yes No**

If your agency's answer to question 7(a) and/or (b) is "Yes," please provide details and a copy of or link to any agreement(s) relating to your answer.

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8. Is your agency subject to state and/or local public procurement laws when soliciting and/or contracting for technology?

**Please circle Yes No**

9. If your answer to question 8 is "Yes," are there state statutes or local ordinances that apply *specifically* to a solicitation and/or contract for the acquisition of technology by your agency?

**Please circle Yes No**

If your answer to question 9 is “Yes,” please provide a citation to the statute(s) or ordinance(s).

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10. In your agency’s experience are there particular clauses that your agency has found to be important to include or to avoid including in technology contracts?

**Please circle Yes No**

If your agency’s answer to question 10 is “Yes,” please identify and/or describe the clauses that should be included or avoided and provide copies of or links to the clauses.

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11. In regard to your agency’s technology projects identified in response to question 2:

a) Who prepared the technical specifications for the technology project(s)?

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b) Were any methods used to obtain information for the preparation of the technical specifications (*e.g.*, a request for information)?

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c) Was a separate contract issued for the preparation of technical specifications for the project(s)?

**Please circle Yes No**

If your answer to question 11(c) is “Yes,” please provide a copy of or a link to the contract(s) for the preparation of the technical specifications.

12. For any project(s) identified in response to question 2 were performance-based specifications used in lieu of or in combination with technical specifications?

**Please circle Yes No**

13. For any of your agency’s technology projects has your agency used cloud computing and/or other cloud-services?

**Please circle Yes No**

If your agency's answer to question 13 is "Yes," please describe your agency's experience with cloud computing and/or other cloud-services and provide a copy of or a link to your agency's agreements for the use of cloud computing.

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14. Has your agency been able to include in its technology contracts the terms that your agency wanted regarding:

- a) Liability and/or limitations on the parties' respective liability?  
**Please circle Yes No**
- b) Indemnification?  
**Please circle Yes No**
- c) Representations and warranties?  
**Please circle Yes No**

15. In regard to the project(s) identified in response to question 2 is any of the technology designed or developed by for your agency:

- a) Copyrightable?  
**Please circle Yes No**
- b) Patentable?  
**Please circle Yes No**

16. For your agency's technology project(s) has your agency:

- a) Registered a copyright for any aspect of a technology project?  
**Please circle Yes No**
- b) Filed for and/or obtained a patent on any discovery resulting from a technology project?  
**Please circle Yes No**

If your answer to question 16(a) and/or (b) is "Yes," please provide details.

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17. Has there been any litigation involving your agency and the technology project(s) identified in response to question 2?



**Please circle Yes No**

If your answer to question 17 is “Yes,” please provide details and a citation to any decision in any cases that your agency has had.

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18. Even if your agency is subject to public procurement laws is your agency allowed to negotiate to obtain a better price for your agency’s technology project(s)?

**Please circle Yes No**

If your answer to question 18 is “Yes,” please provide details and a citation to any statute or ordinance that allows for such negotiation.

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19. Please identify a technology project or projects that your agency has had that in your agency’s opinion would make a good case study for the Report.

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20. Has your agency developed written guidance and/or a set of best practices for your agency’s technology contracting and projects?

**Please circle Yes No**

If your answer is “Yes,” please provide a copy of or a link to the guidance and/or best practices.

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21. Please provide any additional information that your agency would like to furnish regarding its technology projects, practices, and experience with the same.

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**Please return your completed survey preferably by e-mail to:**

**The Thomas Law Firm  
ATTN: Larry W. Thomas, J.D. Ph.D.  
2001 L Street, N.W., Suite 500  
Washington, D.C. 20036  
Tel. (202) 495-3442  
(202) 202-5050 (cell)  
E-mail: lwthomas@cox.net**

**SUMMARY OF TRANSIT AGENCIES' RESPONSES TO THE SURVEY**

1. *In the past 5 years has your agency been involved in the design, development, and/or procurement of technology that your agency regards as a significant project because of its cost, scope, complexity, and/or objectives?*

Of fifty-two transit agencies responding the survey, forty-three answered “Yes.”<sup>691</sup> Nine agencies answered “No.”<sup>692</sup>

2. *In regard to question 1, please identify and describe the technology project(s) that your agency has designed, developed, and/or procured in the past 5 years.*

Numerous transit agencies responding to the survey reported procurements of technology in the past five years of software for accounting, financial, and procurement applications;<sup>693</sup> asset management;<sup>694</sup> CAD and/or AVL;<sup>695</sup> closed circuit television (CCTV) and/or on-board security

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<sup>691</sup> ABQ Ride, Ann Arbor Area Transportation Authority, Antelope Valley Transit Authority, Alameda-Contra Costa Transit District, Brockton Area Transit Authority, Capital Metropolitan Transportation Authority, Central Florida Regional Transportation Authority (LYNX), Cobb County Department of Transportation, Connecticut Department of Transportation, Des Moines Area Regional Transit Authority, Fort Worth Transportation Authority, Golden Empire Transit District, Golden Gate Bridge Highway and Transportation District, Go Transit, Greater Cleveland Regional Transit Authority, Greater Peoria Mass Transit District, Jacksonville Transportation Authority, Los Angeles County Metropolitan Transportation Authority, Louisiana Department of Transportation and Development/Public Transportation, Manchester Transit Authority, Maryland Transit Administration, Metropolitan Atlanta Rapid Transit Authority, Mass Transportation Authority, Northeast Illinois Regional Commuter Railroad, Middletown Transit District, Milwaukee County Transit System, Metropolitan Transit Authority, Norwalk Transit District, Omnitrans, Rockford Mass Transit District, Salem-Keizer Transit, Sandag, San Diego Metropolitan Transit System, Shoreline Metro, Sioux Area Metro, Stark Area Regional Transit Authority (SARTA), Southwest Ohio Transit Authority, Toledo Area Regional Transit Authority, Topeka Metropolitan Transit Authority, Transit Authority of Northern Kentucky Tri-County Metropolitan District of Oregon, TriMet, Utah Transit Authority, and Washington Metropolitan Area Transit Authority.

<sup>692</sup> Cape Ann Transportation Authority, Capital Area Transportation Authority, Centre Area Transportation Authority, City of Billings-MET Transit, Flint Mass Transportation Authority, Milford Transit District, Muskegon Area Transit System, Ohio Valley Regional Transportation Authority, and Pee Dee Regional Transportation Authority.

<sup>693</sup> Des Moines Area Regional Transit Authority and Topeka Metropolitan Transit Authority.

<sup>694</sup> Des Moines Area Regional Transit Authority.

<sup>695</sup> Antelope Valley Transit Authority, Alameda-Contra Costa Transit District, Brockton Area Transit Authority, Capital Metropolitan Transportation Authority, Cobb County Department of Transportation, Des Moines Area Regional Transit Authority, Golden Empire Transit District, Jacksonville Transportation Authority, Manchester Transit Authority, Middletown Transit District, Metropolitan Transit Authority, Norwalk Transit District, Toledo Area Regional Transit Authority, Topeka

cameras;<sup>696</sup> communication;<sup>697</sup> electronic fare collection and mobile ticketing;<sup>698</sup> enhanced trip planning;<sup>699</sup> public Wi-Fi;<sup>700</sup> paratransit;<sup>701</sup> a risk management information system,<sup>702</sup> and other systems and applications.<sup>703</sup>

For example, the Central Florida Regional Transportation Authority (LYNX) stated that

working with 4 local cities, [LYNX] designed a real-time customer interface for reserving, scheduling, and dispatching public demand response transit service. Customers can directly interact with the scheduling system using native cell phone applications or an internet web interface to request a trip. The system automatically schedules the trip to a vehicle and adds it to the driver's manifest without the need for human scheduling or dispatch. The customer is provided real-time notifications of vehicle dispatch, vehicle location, and trip fulfillment.

Furthermore,

LYNX is currently completing the design of an information system for veterans under the Veterans Community Transportation Living Initiative (VCTLI). This system provides information on services available to veterans combined with transportation options to and from the identified resources. This will involve community partnerships between service providers and LYNX as the transportation provider. This project ... is following the traditional system design and RFP process.

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Metropolitan Transit Authority, Transit Authority of Northern Kentucky, and Tri-County Metropolitan District of Oregon, TriMet.

<sup>696</sup> Brockton Area Transit Authority, Golden Empire Transit District, Middletown Transit District, Sioux Area Metro, and Tri-County Metropolitan District of Oregon, TriMet.

<sup>697</sup> Brockton Area Transit Authority, Golden Gate Bridge Highway and Transportation District, and Greater Peoria Mass Transit District.

<sup>698</sup> Brockton Area Transit Authority, Capital Metropolitan Transportation Authority, Jacksonville Transportation Authority, and Tri-County Metropolitan District of Oregon, TriMet.

<sup>699</sup> Capital Metropolitan Transportation Authority, Des Moines Area Regional Transit Authority, and Manchester Transit Authority.

<sup>700</sup> Cobb County Department of Transportation and Des Moines Area Regional Transit Authority.

<sup>701</sup> Greater Peoria Mass Transit District, Shoreline Metro, and Sioux Area Metro.

<sup>702</sup> Southwest Ohio Transit Authority.

<sup>703</sup> ABQ Ride (identifying "hardware and software necessary to migrate applications from individual servers as a virtual environment").

The Connecticut Department of Transportation identified transit Intelligent Transportation Systems (ITS) that includes GPS-based automated vehicle location, integration with scheduling and dispatching software, real-time vehicle location reporting, variable message signs, on-board and off-board announcements, and passenger Wi-Fi. The DOT's New Fare Technology System includes new on-board fare collection equipment, ticket vending machines, and smart card system (card readers, back-office sales, and account management functions).

The Fort Worth Transportation Authority's projects include its Enterprise Resource Planning System; all functional human resources (HR); finance, and maintenance-related software; Interactive Voice Response; Real-Time Passenger Information System; Annunciation System for ADA Stops; and Automated People Counting System.

The Greater Cleveland Regional Transit Authority (GCRTA) described seven technology projects that it has had in the last five years. First, GCRTA implemented a public announcement system throughout its primary heavy rail commuter platforms. Announcements may be made remotely to all or selected platform locations. The vendor is Paladin. Second, the Authority replaced its PBX-based phone system with a more robust VOIP, hosted offering. The vendor is Cincinnati Bell Technology Solutions (CBTS), and the service is offered on the Ohio State Terms Schedule. Third, GCRTA implemented DriveCam that assists in the assessment, determination, and improvement of operators' risky driving habits. The vendor is Lytx. Fourth, for operator bid dispatch, GCRTA replaced its Trapeze Midas-BD with a more current offering using Giro's Hastus products. Fifth, the Authority replaced its Multi-Agency Radio Communication System (MARCS) portable and vehicle radios with new MARCS radios. The state of Ohio is the Radio System Operator, and the solution vendor is VASU. Sixth, the Authority implemented Enterprise Report Writer, an end-user reporting and writing solution that allows users to develop reports without information technology intervention from "seeded" (vendor supplied) and custom (internally created by IT) views for all applications that reside on the Oracle database platform. The solution vendor is EiS. Seventh, the Authority implemented a 6-month mobile ticketing pilot, a vendor-hosted application that supports customer fare purchases and presentation of fare via a mobile device for visual inspection. The solution vendor is Passport Inc.

The Louisiana Department of Transportation and Development/Public Transportation (LaDOTD) stated that it

administer grants that provide operating and capital assistance to public and private transportation providers statewide. The Public Transit Section contracted with a consultant to develop a reporting database known as STTARS (Statewide Transit Tracking and Reporting System). STTARS is a web based application utilized by transit providers in the State of Louisiana to schedule rides, track vehicle inventory and maintenance, track ridership data, and [maintain] financial data.

The Maryland Transit Administration (MTA) identified three projects. The first project is the Baltimore Metro Detection Project for which MTA designed, procured and installed a chemical detection system for one of its underground Metro stations. The project consisted of several chemical sensors installed throughout the station, monitoring software, and interface of the monitoring software with MTA's existing video management system.

The MTA developed a Bus Unified Systems Architecture project involving the procurement of Intelligent Transportation Systems (ITS) consisting of on-board hardware and a fixed-end CAD/AVL System. The all on-board hardware is to be "unified to a complete package with all interfaces necessary for full operation." The CAD/AVL system is to handle all data gathering from the on-board hardware and provide a robust reporting mechanism that can be used across multiple departments. The fixed-end software is required to interface a number of existing software products already owned by the MTA, including fixed route scheduling software and operational assignment software. Because of bid protests and re-advertising, the MTA described the project as being currently in "active evaluation."

The MTA's third project is for a real-time information system.

The Metropolitan Atlanta Rapid Transit Authority (MARTA) stated that its projects are Microsoft Office 365, a Mobile Ticketing System (MTS), and its Enterprise Resource Planning (ERP) project. Office 365 is a "cloud based solution [that] will reduce MARTA's server, storage, and maintenance costs for the exchange environment and provide disaster recovery capability in case of outages within MARTA's data centers. MARTA's objective with mobile ticketing is "to create a secure regional account-based Mobile Ticketing System for MARTA and its regional partners [to improve] customer experience by providing a secure, quick and easy way to purchase and use tickets and passes through smart devices, which includes, without limitation, the MTS App, MTS Clearinghouse and MTS Back-office."

MARTA's Oracle ERP modules include Oracle Grants used by MARTA's accounting department to track project-level expenditures; Oracle Payroll; and E-Business Suite 2003 Professional User, a collection of Oracle applications used by accounting, purchasing, inventory, human resources, and other departments at MARTA.

Northeast Illinois Regional Commuter Railroad's (Metra) project is for Positive Train Control (PTC), a GPS-based safety system designed to prevent train-to-train collisions and entry into work zones and over-speed derailments.

Milwaukee County Transit System's technology projects are a real-time information and Automated Vehicle Annunciator (AVA) system from Clever Devices; a smart card based electronic fare collection system with an internet portal and electronic fareboxes from Scheidt & Bachmann; and a mobile video surveillance system (MVSS) with associated software from Apollo Video Technologies.

Omnitrans said that it utilized the Systems Applications and Products in Data Processing (SAP) Support Package (SP 40) and ECC EHP 4 that upgraded Solution Manager from 7.0 to 7.1; ECC from EHP4 to EHP6; SRM from 7.0 to 7.03; and BSI TaxFactory from 9.0 to 10.1.

Omnitrans also “upgraded its legacy Integrated Vehicle Logic Units (IVLU) Mobile Display Terminal (MDT) equipment with the new VI-IVLA and Touch MDT as part of a Transitmaster hardware and back office equipment upgrade.”

In 2014, the San Diego Metropolitan Transit System, referring to its Internet Replacement Project, stated that it developed and published an RFP for a new website that is ADA-compliant, user friendly, and mobile-enabled with a transit planning application.

The Washington Metropolitan Area Transit Authority reported that WMATA has been involved in the design, development and procurement of several significant technology projects that are complete or in development for which it used several procurement methods.

- A new Kronos timekeeping system that will be operational in FY-2017 “to capture payable time” for which WMATA is using an independent contractor for implementation.
- WMATA employees and “staff augmentation resources” are implementing Windchill, a new application that WMATA purchased off-the-shelf.
- WMATA internally developed a Safety Measurement System by using staff augmentation contractors and SharePoint.
- An independent contractor upgraded PeopleSoft 9.1.
- WMATA used an independent contractor for a PeopleSoft HCM upgrade.
- Using staff augmentation resources, WMATA developed funds-management as a “bolt-on” to PeopleSoft to aid in the distribution of funds for managing grants.
- WMATA used an independent contractor to implement Contracts Lifecycle Management.
- WMATA used internal resources and staff augmentation resources to implement Customer Relationship Management.
- An independent contractor installed WMATA’s CAD/RMS system.
- An independent contractor from whom WMATA purchased the hardware and services upgraded the Authority’s San Storage.
- WMATA procured Juniper switch through a hardware reseller.

3. *For the technology project(s) identified in response to question 2, who designed or developed your agency's project(s)?*

a) *Your agency's employees?*

Twenty-one agencies answered that their employees had designed or developed the agency's project(s).<sup>704</sup> Sixteen agencies said that their employees had not done so.<sup>705</sup> Five agencies did not respond to the question.<sup>706</sup>

The Milwaukee County Transit System said that its employees were responsible for its real-time and AVL projects but that it used an independent contractor for its MVSS and farebox projects.<sup>707</sup>

b) *An independent contractor?*

Twenty-seven agencies responded that they had used an independent contractor,<sup>708</sup> whereas ten agencies reported that they had not.<sup>709</sup> Five agencies did not respond to the question.<sup>710</sup>

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<sup>704</sup> ABQ Ride, Central Florida Regional Transportation Authority (LYNX), Cobb County Department of Transportation, Des Moines Area Regional Transit Authority, Fort Worth Transportation Authority, Golden Empire Transit District, Golden Gate Bridge Highway and Transportation District, Greater Peoria Mass Transit District, Los Angeles County Metropolitan Transportation Authority, Manchester Transit Authority, Mass Transportation Authority, Northeast Illinois Regional Commuter Railroad, Milwaukee County Transit System, Omnitrans, Salem-Keizer Transit, Sandag, San Diego Metropolitan Transit System, Topeka Metropolitan Transit Authority, Tri-County Metropolitan District of Oregon, TriMet, Utah Transit Authority, and Washington Metropolitan Area Transit Authority.

<sup>705</sup> Antelope Valley Transit Authority, Alameda-Contra Costa Transit District, Brockton Area Transit Authority, Capital Metropolitan Transportation Authority, Connecticut Department of Transportation, Jacksonville Transportation Authority, Louisiana Department of Transportation and Development/Public Transportation, Maryland Transit Administration, Metropolitan Atlanta Rapid Transit Authority, Metropolitan Transit Authority, Rockford Mass Transit District, Shoreline Metro, Sioux Area Metro, Stark Area Regional Transit Authority (SARTA), Southwest Ohio Transit Authority, and Toledo Area Regional Transit Authority.

<sup>706</sup> Go Transit, Greater Cleveland Regional Transit Authority, Middletown Transit District, Norwalk Transit District, and Transit Authority of Northern Kentucky.

<sup>707</sup> *See also*, the transit agencies' responses to question 2.

<sup>708</sup> Antelope Valley Transit Authority, Central Florida Regional Transportation Authority (LYNX), Des Moines Area Regional Transit Authority, Fort Worth Transportation Authority, Golden Empire Transit District, Golden Gate Bridge Highway and Transportation District, Go Transit, Jacksonville Transportation Authority, Louisiana Department of Transportation and Development/Public Transportation, Maryland Transit Administration, Metropolitan Atlanta Rapid Transit Authority, Mass Transportation Authority, Northeast Illinois Regional Commuter Railroad, Middletown Transit District, Milwaukee County Transit System, Norwalk Transit District, Rockford Mass Transit District, Sandag, San Diego Metropolitan Transit System, Shoreline Metro, Sioux Area Metro, Stark Area Regional Transit

The Central Florida Regional Transportation Authority (LYNX) stated that the “concept for real-time demand response service scheduling and dispatch was initially designed by LYNX and local cities,” but thereafter the group hired an “independent contractor to follow the design process (Systems Engineering) with LYNX and the cities....”

In regard to subparts (a) and (b), the San Diego Metropolitan Transit System stated that the Statement of Work (SOW) for the RFP for the project that it identified in response to question 2 was written in house by information technology staff. The agency said that the scope of the project required the use of Drupal, an open source platform.

c) *Other?*

As for whether another entity or person had been involved, nine agencies responded “Yes,”<sup>711</sup> but fifteen agencies answered “No.”<sup>712</sup> Eighteen agencies did not respond to the question.<sup>713</sup>

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Authority (SARTA), Toledo Area Regional Transit Authority, Topeka Metropolitan Transit Authority, Transit Authority of Northern Kentucky, Tri-County Metropolitan District of Oregon, TriMet, and Washington Metropolitan Area Transit Authority.

<sup>709</sup> Alameda-Contra Costa Transit District, Brockton Area Transit Authority, Capital Metropolitan Transportation Authority, Connecticut Department of Transportation, Greater Peoria Mass Transit District, Los Angeles County Metropolitan Transportation Authority, Manchester Transit Authority, Metropolitan Transit Authority, Omnitrans, and Southwest Ohio Transit Authority.

<sup>710</sup> ABQ Ride, Cobb County Department of Transportation, Greater Cleveland Regional Transit Authority, Salem-Keizer Transit, and Utah Transit Authority.

<sup>711</sup> ABQ Ride, Alameda-Contra Costa Transit District, Capital Metropolitan Transportation Authority, Central Florida Regional Transportation Authority (LYNX), Connecticut Department of Transportation (identifying the use of a “consultant” under the category of “other”), Golden Empire Transit District, Manchester Transit Authority, Southwest Ohio Transit Authority, and Washington Metropolitan Area Transit Authority.

<sup>712</sup> Antelope Valley Transit Authority, Fort Worth Transportation Authority, Jacksonville Transportation Authority, Los Angeles County Metropolitan Transportation Authority, Louisiana Department of Transportation and Development/Public Transportation, Maryland Transit Administration, Metropolitan Atlanta Rapid Transit Authority, Northeast Illinois Regional Commuter Railroad, Milwaukee County Transit System, Metropolitan Transit Authority, Rockford Mass Transit District, Sandag, San Diego Metropolitan Transit System, Shoreline Metro, and Toledo Area Regional Transit Authority.

<sup>713</sup> Brockton Area Transit Authority, Cobb County Department of Transportation, Des Moines Area Regional Transit Authority, Golden Gate Bridge Highway and Transportation District, Go Transit, Greater Cleveland Regional Transit Authority, Greater Peoria Mass Transit District, Mass Transportation Authority, Middletown Transit District, Norwalk Transit District, Omnitrans, Salem-Keizer Transit, Sioux Area Metro, Stark Area Regional Transit Authority (SARTA), Topeka Metropolitan Transit



4. *If your agency entered into a contract with an independent contractor for the technology project(s) identified in response to question 2 did your agency at the conclusion of the project(s):*

a) *Hold all rights in the technology?*

As for whether any agencies hold all rights in the technology that have procured in the past five years, nine agencies reported that they do,<sup>714</sup> but twenty-three agencies said that they do not.<sup>715</sup> Ten agencies did not respond to the question.<sup>716</sup>

The San Diego Metropolitan Transit System (MTS) reported that “the vendor developed and delivered the project as requested and [that] MTS owns all rights to the platform. There are no licensing issues as MTS specified the use of open source software.”

b) *Hold limited rights in the technology pursuant to a license or other agreement?*

Twenty agencies reported that pursuant to a license or other agreement they hold limited rights in the technology they acquired.<sup>717</sup> On the other hand, thirteen agencies said that they do not.<sup>718</sup> Nine agencies did not respond to the question.<sup>719</sup>

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Authority, Transit Authority of Northern Kentucky Tri-County Metropolitan District of Oregon, TriMet, and Utah Transit Authority.

<sup>714</sup> ABQ Ride (standard EULA with VmWare), Fort Worth Transportation Authority, Golden Gate Bridge Highway and Transportation District, Louisiana Department of Transportation and Development/Public Transportation, Manchester Transit Authority, San Diego Metropolitan Transit System, Topeka Metropolitan Transit Authority, Tri-County Metropolitan District of Oregon, TriMet, and Utah Transit Authority.

<sup>715</sup> Antelope Valley Transit Authority, Central Florida Regional Transportation Authority (LYNX), Des Moines Area Regional Transit Authority, Golden Empire Transit District, Greater Peoria Mass Transit District, Jacksonville Transportation Authority, Los Angeles County Metropolitan Transportation Authority, Maryland Transit Administration, Metropolitan Atlanta Rapid Transit Authority, Mass Transportation Authority, Northeast Illinois Regional Commuter Railroad, Middletown Transit District, Milwaukee County Transit System, Metropolitan Transit Authority, Omnitrans, Rockford Mass Transit District, Sandag, Shoreline Metro, Sioux Area Metro, Stark Area Regional Transit Authority (SARTA), Southwest Ohio Transit Authority, Toledo Area Regional Transit Authority, and Washington Metropolitan Area Transit Authority.

<sup>716</sup> Alameda-Contra Costa Transit District, Brockton Area Transit Authority, Capital Metropolitan Transportation Authority, Cobb County Department of Transportation, Connecticut Department of Transportation, Go Transit, Greater Cleveland Regional Transit Authority, Norwalk Transit District, Salem-Keizer Transit, and Transit Authority of Northern Kentucky.

<sup>717</sup> Brockton Area Transit Authority, Des Moines Area Regional Transit Authority, Fort Worth Transportation Authority, Golden Empire Transit District, Go Transit, Los Angeles County Metropolitan Transportation Authority, Manchester Transit Authority, Maryland Transit Administration, Metropolitan Atlanta Rapid Transit Authority, Northeast Illinois Regional Commuter Railroad, Milwaukee County

For example, the Greater Cleveland Regional Transit Authority reported that it holds limited rights pursuant to a license or other agreement for the seven projects that it described in response to question 2.

In regard to question 4(b), the Maryland Transit Administration referred to its standard contract and provided a copy of its General Provisions and Supplementary General Provisions. See Appendix D.

c) *Hold limited rights in the technology pursuant to an agreement other than a purchase agreement, license, or assignment?*

Only two agencies answered “Yes” to subpart (c).<sup>720</sup> Twenty-six agencies answered “No.”<sup>721</sup> Fourteen agencies did not respond to the question.<sup>722</sup>

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Transit System, Norwalk Transit District, Rockford Mass Transit District, Sandag, Shoreline Metro, Stark Area Regional Transit Authority (SARTA), Transit Authority of Northern Kentucky Tri-County Metropolitan District of Oregon, TriMet, Utah Transit Authority, and Washington Metropolitan Area Transit Authority.

<sup>718</sup> ABQ Ride, Antelope Valley Transit Authority, Central Florida Regional Transportation Authority (LYNX), Greater Peoria Mass Transit District, Jacksonville Transportation Authority, Louisiana Department of Transportation and Development/Public Transportation, Mass Transportation Authority, Middletown Transit District, Metropolitan Transit Authority, Omnitrans, Sioux Area Metro, Southwest Ohio Transit Authority, and Toledo Area Regional Transit Authority.

<sup>719</sup> Alameda-Contra Costa Transit District, Capital Metropolitan Transportation Authority, Cobb County Department of Transportation, Connecticut Department of Transportation, Golden Gate Bridge Highway and Transportation District, Greater Cleveland Regional Transit Authority, Salem-Keizer Transit, San Diego Metropolitan Transit System, and Topeka Metropolitan Transit Authority.

<sup>720</sup> Central Florida Regional Transportation Authority (LYNX) and Stark Area Regional Transit Authority (SARTA).

<sup>721</sup> ABQ Ride, Antelope Valley Transit Authority, Brockton Area Transit Authority, Des Moines Area Regional Transit Authority, Fort Worth Transportation Authority, Golden Empire Transit District, Greater Peoria Mass Transit District, Jacksonville Transportation Authority, Los Angeles County Metropolitan Transportation Authority, Louisiana Department of Transportation and Development/Public Transportation, Manchester Transit Authority, Maryland Transit Administration, Metropolitan Atlanta Rapid Transit Authority, Mass Transportation Authority, Northeast Illinois Regional Commuter Railroad, Middletown Transit District, Milwaukee County Transit System, Metropolitan Transit Authority, Omnitrans, Rockford Mass Transit District, Sandag, Shoreline Metro, Sioux Area Metro, Southwest Ohio Transit Authority, Toledo Area Regional Transit Authority, and Washington Metropolitan Area Transit Authority.

<sup>722</sup> Alameda-Contra Costa Transit District, Capital Metropolitan Transportation Authority, Cobb County Department of Transportation, Connecticut Department of Transportation, Golden Gate Bridge Highway and Transportation District, Go Transit, Greater Cleveland Regional Transit Authority, Norwalk Transit District, Salem-Keizer Transit, San Diego Metropolitan Transit System, Topeka Metropolitan Transit

*If your agency's answer is "Yes" to question 4(a), (b), and/or (c), please provide a copy of or a link to any agreement, license, or assignment, including any terms and conditions that were part of the parties' contractual relationship.*

Many agencies provided copies of their technology agreements and other documentation.<sup>723</sup> See Appendix D.

The Central Florida Regional Transportation Authority (LYNX) stated that it used federal funds to assist in the development of the technology described in its response to question 2. LYNX and a consortium of four cities have a perpetual license to the use of the hosted software. At the termination of any hosting contract, LYNX will own the software as updated. The vendor retains the right to market and sell the software to others.

The Louisiana Department of Transportation and Development/Public Transportation (LaDOTD) stated that the software that it described in response to question 2 "does not have an agreement or license. LaDOTD owns the STTARS software. The application resides on LaDOTD's Public Transportation website and follows LaDOTD IT standards."

5. *For your agency's technology project(s) identified in response to question 2 did your agency's contract specify the use of:*

a) *Off-the-shelf software?*

Twenty-seven agencies reported that they specified the use of off-the-shelf software.<sup>724</sup> Twelve reported that they did not.<sup>725</sup> Three agencies did not respond to the question.<sup>726</sup>

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Authority, Transit Authority of Northern Kentucky Tri-County Metropolitan District of Oregon, TriMet, and Utah Transit Authority.

<sup>723</sup> See also, for the Connecticut Department of Transportation, [http://www.biznet.ct.gov/SCP\\_Search/ContractDetail.aspx?ID=12942](http://www.biznet.ct.gov/SCP_Search/ContractDetail.aspx?ID=12942) (last accessed Feb. 24, 2017).

<sup>724</sup> ABQ Ride, Antelope Valley Transit Authority, Alameda-Contra Costa Transit District, Brockton Area Transit Authority, Central Florida Regional Transportation Authority (LYNX), Cobb County Department of Transportation, Connecticut Department of Transportation, Des Moines Area Regional Transit Authority, Fort Worth Transportation Authority, Golden Gate Bridge Highway and Transportation District, Jacksonville Transportation Authority, Los Angeles County Metropolitan Transportation Authority, Maryland Transit Administration, Metropolitan Atlanta Rapid Transit Authority, Mass Transportation Authority, Northeast Illinois Regional Commuter Railroad, Metropolitan Transit Authority, Omnitrans, Salem-Keizer Transit, Sandag, Sioux Area Metro, Southwest Ohio Transit Authority, Topeka Metropolitan Transit Authority, Tri-County Metropolitan District of Oregon, TriMet, Utah Transit Authority, and Washington Metropolitan Area Transit Authority.

<sup>725</sup> Capital Metropolitan Transportation Authority, Golden Empire Transit District, Go Transit, Greater Cleveland Regional Transit Authority, Greater Peoria Mass Transit District, Louisiana Department of Transportation and Development/Public Transportation, Manchester Transit Authority, Middletown

b) *Open source software?*

Twelve agencies said that they specified open source software.<sup>727</sup> Twenty-five agencies did not.<sup>728</sup> Five agencies did not respond to the question.<sup>729</sup>

The Central Florida Regional Transportation Authority (LYNX) said that the scope of one of its projects was that “[t]he system shall be open source and aggregate existing technologies as much as possible.” Off-the-shelf software was not required but encouraged to the degree possible with the understanding that the project had not been deployed elsewhere so [that it] would not be available in its entirety as off-the-shelf” software.

c) *Custom-built or customized software?*

Twenty-three agencies reported that they specified custom-built or customized software.<sup>730</sup> However, eighteen agencies said that they had not.<sup>731</sup> Two agencies did not respond to the question.<sup>732</sup>

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Transit District, Milwaukee County Transit System, Rockford Mass Transit District, Shoreline Metro, Stark Area Regional Transit Authority (SARTA), and Toledo Area Regional Transit Authority.

<sup>726</sup> Norwalk Transit District, San Diego Metropolitan Transit System, and Transit Authority of Northern Kentucky.

<sup>727</sup> Brockton Area Transit Authority, Central Florida Regional Transportation Authority (LYNX), Cobb County Department of Transportation, Connecticut Department of Transportation, Fort Worth Transportation Authority, Greater Cleveland Regional Transit Authority, Northeast Illinois Regional Commuter Railroad, Sandag, San Diego Metropolitan Transit System, Tri-County Metropolitan District of Oregon, TriMet, Utah Transit Authority, Washington Metropolitan Area Transit Authority.

<sup>728</sup> ABQ Ride, Antelope Valley Transit Authority (stating that inductive charging was first of its kind), Alameda-Contra Costa Transit District, Capital Metropolitan Transportation Authority, Des Moines Area Regional Transit Authority, Golden Empire Transit District, Golden Gate Bridge Highway and Transportation District, Go Transit, Greater Peoria Mass Transit District, Jacksonville Transportation Authority, Los Angeles County Metropolitan Transportation Authority, Louisiana Department of Transportation and Development/Public Transportation, Manchester Transit Authority, Maryland Transit Administration, Metropolitan Atlanta Rapid Transit Authority, Mass Transportation Authority, Milwaukee County Transit System, Metropolitan Transit Authority, Omnitrans, Rockford Mass Transit District, Shoreline Metro, Sioux Area Metro, Stark Area Regional Transit Authority (SARTA), Southwest Ohio Transit Authority, and Toledo Area Regional Transit Authority.

<sup>729</sup> Middletown Transit District, Norwalk Transit District, Salem-Keizer Transit, Topeka Metropolitan Transit Authority, and Transit Authority of Northern Kentucky.

<sup>730</sup> Antelope Valley Transit Authority, Brockton Area Transit Authority, Capital Metropolitan Transportation Authority, Fort Worth Transportation Authority, Golden Empire Transit District, Go Transit, Greater Cleveland Regional Transit Authority, Jacksonville Transportation Authority, Manchester Transit Authority, Mass Transportation Authority, Northeast Illinois Regional Commuter

Some agencies reported using more than one kind of software. For example, the Greater Cleveland Regional Transit Authority reported that it used off-the-shelf software for six of its seven projects (phone system replacement, DriveCam, transit police radio replacement, enterprise report writer, and mobile ticketing); that it used both off-the-shelf and custom or customized software for its operator bid dispatch project; and that it used custom or customized software for its public announcement system.

6. *For any of your agency's technology project(s) identified in response to question 2 what method of contracting was used for project-delivery:*

a) *A traditional design-bid-build contract?*

Twenty-three agencies reported using a traditional design-bid-build contract for their technology projects.<sup>733</sup> Fifteen said that they had not.<sup>734</sup> Four agencies did not respond to the question.<sup>735</sup>

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Railroad, Middletown Transit District, Metropolitan Transit Authority, Norwalk Transit District, Rockford Mass Transit District, San Diego Metropolitan Transit System, Shoreline Metro, Toledo Area Regional Transit Authority, Transit Authority of Northern Kentucky Tri-County Metropolitan District of Oregon, TriMet, Utah Transit Authority, and Washington Metropolitan Area Transit Authority.

<sup>731</sup> ABQ Ride, Alameda-Contra Costa Transit District, Central Florida Regional Transportation Authority (LYNX), Cobb County Department of Transportation, Connecticut Department of Transportation, Des Moines Area Regional Transit Authority, Golden Gate Bridge Highway and Transportation District, Greater Peoria Mass Transit District, Los Angeles County Metropolitan Transportation Authority, Louisiana Department of Transportation and Development/Public Transportation, Maryland Transit Administration, Metropolitan Atlanta Rapid Transit Authority, Milwaukee County Transit System, Omnitrans, Sandag, Sioux Area Metro, Stark Area Regional Transit Authority (SARTA), and Southwest Ohio Transit Authority.

<sup>732</sup> Salem-Keizer Transit and Topeka Metropolitan Transit Authority.

<sup>733</sup> Antelope Valley Transit Authority, Cobb County Department of Transportation, Connecticut Department of Transportation, Des Moines Area Regional Transit Authority, Fort Worth Transportation Authority, Golden Empire Transit District, Golden Gate Bridge Highway and Transportation District, Go Transit, Greater Cleveland Regional Transit Authority, Manchester Transit Authority, Maryland Transit Administration, Middletown Transit District, Milwaukee County Transit System, Metropolitan Transit Authority, Norwalk Transit District, Omnitrans, Sandag, San Diego Metropolitan Transit System, Shoreline Metro, Sioux Area Metro, Toledo Area Regional Transit Authority, Transit Authority of Northern Kentucky and Tri-County Metropolitan District of Oregon, TriMet.

<sup>734</sup> ABQ Ride, Alameda-Contra Costa Transit District, Brockton Area Transit Authority, Capital Metropolitan Transportation Authority, Greater Peoria Mass Transit District, Jacksonville Transportation Authority, Los Angeles County Metropolitan Transportation Authority, Louisiana Department of Transportation and Development/Public Transportation, Metropolitan Atlanta Rapid Transit Authority, Mass Transportation Authority, Northeast Illinois Regional Commuter Railroad, Rockford Mass Transit

b) *A design-build or another form of alternative method of contracting?*

Nine agencies said that they had used design-build or other alternative form of contracting.<sup>736</sup> Twenty-four said that they had not.<sup>737</sup> Nine agencies did not respond to the question.<sup>738</sup>

The Central Florida Regional Transportation Authority (LYNX) stated that:

LYNX used a process in which the project was designed with consultant help, then bid using a proof-of-concept RFP method. The vendor(s) submitted proposals, with the ranked vendor(s) required to deploy the solution at their cost to prove that the solution worked in a test service. It was required to be operational in a test mode for eight weeks during which time it was tested by selection committee members. The selection committee then chose the successful bidder after the successful completion of the demonstration system in service. If the vendor(s) were rejected the procurement process would cease without cost to the Authority (full risk on the vendor(s)). The contractual relationship was negotiated and executed after the above process.

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District, Stark Area Regional Transit Authority (SARTA), Southwest Ohio Transit Authority, and Utah Transit Authority.

<sup>735</sup> Central Florida Regional Transportation Authority (LYNX), Salem-Keizer Transit, Topeka Metropolitan Transit Authority, Washington Metropolitan Area Transit Authority.

<sup>736</sup> Antelope Valley Transit Authority (inductive charging), Capital Metropolitan Transportation Authority, Central Florida Regional Transportation Authority (LYNX), Des Moines Area Regional Transit Authority, Greater Peoria Mass Transit District, Metropolitan Atlanta Rapid Transit Authority, Rockford Mass Transit District, Sandag and Washington Metropolitan Area Transit Authority.

<sup>737</sup> ABQ Ride, Alameda-Contra Costa Transit District, Brockton Area Transit Authority, Cobb County Department of Transportation, Connecticut Department of Transportation, Fort Worth Transportation Authority, Golden Empire Transit District, Golden Gate Bridge Highway and Transportation District, Jacksonville Transportation Authority, Los Angeles County Metropolitan Transportation Authority, Louisiana Department of Transportation and Development/Public Transportation, Manchester Transit Authority, Maryland Transit Administration, Mass Transportation Authority, Northeast Illinois Regional Commuter Railroad, Milwaukee County Transit System, Metropolitan Transit Authority, Omnitrans, Shoreline Metro, Sioux Area Metro, Stark Area Regional Transit Authority (SARTA), Southwest Ohio Transit Authority, Toledo Area Regional Transit Authority, and Utah Transit Authority.

<sup>738</sup> Go Transit, Greater Cleveland Regional Transit Authority, Middletown Transit District, Norwalk Transit District, Salem-Keizer Transit, San Diego Metropolitan Transit System, Topeka Metropolitan Transit Authority, Transit Authority of Northern Kentucky and Tri-County Metropolitan District of Oregon, TriMet.

The Greater Cleveland Regional Transit Authority reported that it used a traditional design-bid-build contract for six of its seven projects described in response to question 2 (public announcement system, phone system replacement, DriveCam, transit police radio replacement, enterprise report writer, and operator bid dispatch), but the mobile ticketing project was a pilot project.

*In regard to question 6(a) and/or (b), please provide details and a copy of or a link to the agreements, including any terms and conditions and other documents that are part of the parties' contractual relationship.*

Numerous transit agencies provided copies of their agreements, terms and conditions, and other documents. *See* Appendix D. The Alameda-Contra Costa Transit District provided a link to a RFI and its contract with Clever Devices, <http://www.actransit.org/acpronet/request-for-information-for-cadavl-implementation/> (last accessed Nov. 4, 2016), as well as a link to the staff report requesting authorization for the award of the contract, [http://www.actransit.org/wp-content/uploads/board\\_memos/13-326b%20CAD-AVL%20Contract.pdf](http://www.actransit.org/wp-content/uploads/board_memos/13-326b%20CAD-AVL%20Contract.pdf) (last accessed Nov. 4, 2016).

The Fort Worth Transportation Authority stated that because some projects are proprietary the agency could not share details of projects that were still in the design/ build/bid stage.

Salem-Keizer Transit stated that for Google Apps the agency analyzed the costs of upgrading its exchange server hardware, software, and licensing. “We also factored in some training and labor costs of the Network Administrator. We compared these costs to Google Apps. The costs were lower to use Google Apps. Plus, we would gain additional features such as ‘Google Vault,’ a method of storing all email for records retention....”

Salem-Keizer said that no procurement was required for its EFC project that the agency described in response to question 2. “Our vehicles already had been using the fare boxes for many years. The card readers were never implemented and were stored in the boxes. We only needed to purchase the fare media, install the card readers, and prepare the public for implementation.”

7. *Did your agency's technology project(s) identified in response to question 2, whether as part of the technology contract or as a separate contract, include:*

a) *Maintenance and support?*

Thirty-six transit agencies answered “Yes” to the question.<sup>739</sup> Three agencies answered “No.”<sup>740</sup> Three did not respond to the question.<sup>741</sup>

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<sup>739</sup> ABQ Ride (standard HW/SW maintenance agreements with Lenovo (servers) and VmWare (software)), Antelope Valley Transit Authority, Alameda-Contra Costa Transit District, Brockton Area Transit Authority, Capital Metropolitan Transportation Authority, Central Florida Regional Transportation Authority (LYNX), Cobb County Department of Transportation, Connecticut Department

b) *A service level agreement?*

Twenty-six agencies reporting having a service level agreement,<sup>742</sup> but eleven agencies said that they did not.<sup>743</sup> Five agencies did not respond to the question.<sup>744</sup>

*If your agency's answer to question 7(a) and/or (b) is "Yes," please provide details and a copy of or link to any agreement(s) relating to your answer.*

In regard to question 7(a), the Central Florida Regional Transportation Authority (LYNX) stated that for contract 15-C13, (*see* Appendix D), "[t]he original procurement required a one-year warranty period plus options for one, two, or three additional years. The actual system

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of Transportation, Des Moines Area Regional Transit Authority, Golden Empire Transit District, Golden Gate Bridge Highway and Transportation District, Go Transit, Greater Cleveland Regional Transit Authority, Greater Peoria Mass Transit District, Jacksonville Transportation Authority, Los Angeles County Metropolitan Transportation Authority, Louisiana Department of Transportation and Development/Public Transportation, Manchester Transit Authority, Maryland Transit Administration, Metropolitan Atlanta Rapid Transit Authority, Middletown Transit District, Milwaukee County Transit System, Metropolitan Transit Authority, Rockford Mass Transit District, Sandag, San Diego Metropolitan Transit System, Shoreline Metro, Sioux Area Metro, Stark Area Regional Transit Authority (SARTA), Southwest Ohio Transit Authority, Toledo Area Regional Transit Authority, Topeka Metropolitan Transit Authority, Transit Authority of Northern Kentucky Tri-County Metropolitan District of Oregon, TriMet, Utah Transit Authority, and Washington Metropolitan Area Transit Authority.

<sup>740</sup> Fort Worth Transportation Authority, Northeast Illinois Regional Commuter Railroad, and Omnitrans.

<sup>741</sup> Mass Transportation Authority, Norwalk Transit District, and Salem-Keizer Transit.

<sup>742</sup> Antelope Valley Transit Authority, Alameda-Contra Costa Transit District, Brockton Area Transit Authority, Capital Metropolitan Transportation Authority, Cobb County Department of Transportation, Connecticut Department of Transportation, Golden Gate Bridge Highway and Transportation District, Go Transit, Greater Cleveland Regional Transit Authority, Greater Peoria Mass Transit District, Jacksonville Transportation Authority, Metropolitan Atlanta Rapid Transit Authority, Milwaukee County Transit System, Metropolitan Transit Authority, Norwalk Transit District, Omnitrans, Rockford Mass Transit District, Shoreline Metro, Stark Area Regional Transit Authority (SARTA), Southwest Ohio Transit Authority, Toledo Area Regional Transit Authority, Topeka Metropolitan Transit Authority, Transit Authority of Northern Kentucky Tri-County Metropolitan District of Oregon, TriMet, Utah Transit Authority, and Washington Metropolitan Area Transit Authority.

<sup>743</sup> ABQ Ride, Central Florida Regional Transportation Authority (LYNX), Fort Worth Transportation Authority, Golden Empire Transit District, Los Angeles County Metropolitan Transportation Authority, Louisiana Department of Transportation and Development/Public Transportation, Manchester Transit Authority, Maryland Transit Administration, Northeast Illinois Regional Commuter Railroad, Sandag, and Sioux Area Metro.

<sup>744</sup> Des Moines Area Regional Transit Authority, Mass Transportation Authority, Middletown Transit District, Salem-Keizer Transit, and San Diego Metropolitan Transit System.



procurement included the original plus two additional years. This includes hosting the system, updates, and telecommunications.”

The Greater Cleveland Regional Transit Authority stated that it has maintenance and support agreements for its public announcement system, DriveCam, operator bid dispatch, and enterprise report writer projects but has both a maintenance and support and a service level agreement for its phone system replacement project. There are no agreements of either type for its transit police radio replacement project or its mobile ticketing pilot project.

The Louisiana Department of Transportation and Development/Public Transportation (LaDOTD) stated in response to question 7(a) that “[t]he maintenance and support agreement for STTARS is part of a 3-year consultant contract with LaDOTD. The STTARS program is one of the six tasks included in the 3-year consultant contract. The contractor provides system upgrades, technical assistance and input to assist LaDOTD with the configuration and implementation of STTARS enhancements.”

The Manchester Transit Authority stated in response to question 7(a) that the original proposal for its project described in response to question 2 included three years of maintenance and support.

The Maryland Transit Administration reported that its contract for the Baltimore Metro Detection Project included two years of post-warranty software and hardware maintenance and that the software maintenance included any upgrades/fixes. Hardware maintenance included server as well as field hardware. For its Bus Unified Systems Architecture project, the base contract included two years of warranty and maintenance and an option for three additional years of maintenance.

The Milwaukee County Transit System, also responding to question 7(a), stated that maintenance and support agreements existed for Clever Devices and MVSS identified in its response to question 2. The agency said in response to subpart (b) that a service level agreement existed for Farebox and Clever (real-time hosting).

For both subparts of question 7, the Metropolitan Atlanta Rapid Transit Authority identified its Microsoft Office 365 contract; its MTS contract; and its ERP contract, all of which it described in its response to question 2.

8. *Is your agency subject to state and/or local public procurement laws when soliciting and/or contracting for technology?*

Thirty-five agencies reported that they are subject to state or local public procurement laws when soliciting and/or contracting for technology.<sup>745</sup> Five agencies reported that they are not,<sup>746</sup> and two did not respond to the question.<sup>747</sup>

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<sup>745</sup> ABQ Ride, Antelope Valley Transit Authority, Alameda-Contra Costa Transit District, Capital Metropolitan Transportation Authority, Cobb County Department of Transportation, Connecticut Department of Transportation, Des Moines Area Regional Transit Authority, Fort Worth Transportation

9. *If your answer to question 8 is “Yes,” are there state statutes or local ordinances that apply specifically to a solicitation and/or contract for the acquisition of technology by your agency?*

Fourteen agencies answered that there are state statutes or local ordinances that apply specifically to a solicitation and/or contract for the acquisition of technology by their agency.<sup>748</sup> Twenty agencies said that there are not.<sup>749</sup> Eight agencies did not respond to the question.<sup>750</sup>

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Authority, Golden Gate Bridge Highway and Transportation District, Go Transit, Greater Cleveland Regional Transit Authority, Greater Peoria Mass Transit District, Jacksonville Transportation Authority, Louisiana Department of Transportation and Development/Public Transportation, Manchester Transit Authority, Maryland Transit Administration, Metropolitan Atlanta Rapid Transit Authority, Northeast Illinois Regional Commuter Railroad, Middletown Transit District, Milwaukee County Transit System, Metropolitan Transit Authority, Norwalk Transit District, Omnitrans, Rockford Mass Transit District, Salem-Keizer Transit, Sandag, San Diego Metropolitan Transit System, Shoreline Metro, Sioux Area Metro, Southwest Ohio Transit Authority, Toledo Area Regional Transit Authority, Topeka Metropolitan Transit Authority, Transit Authority of Northern Kentucky Tri-County Metropolitan District of Oregon, TriMet, and Utah Transit Authority.

<sup>746</sup> Brockton Area Transit Authority, Golden Empire Transit District, Los Angeles County Metropolitan Transportation Authority, Stark Area Regional Transit Authority (SARTA), and Washington Metropolitan Area Transit Authority.

<sup>747</sup> Central Florida Regional Transportation Authority (LYNX) and Mass Transportation Authority.

<sup>748</sup> ABQ Ride (stating that the city council enacted an ordinance creating the Information Services Committee and that the mayor issues administrative instructions concerning the purchase of technology), Cobb County Department of Transportation, Connecticut Department of Transportation, Des Moines Area Regional Transit Authority, Golden Gate Bridge Highway and Transportation District, Greater Cleveland Regional Transit Authority, Louisiana Department of Transportation and Development/Public Transportation, Northeast Illinois Regional Commuter Railroad, Milwaukee County Transit System, San Diego Metropolitan Transit System, Shoreline Metro, Topeka Metropolitan Transit Authority, Transit Authority of Northern Kentucky and Tri-County Metropolitan District of Oregon, TriMet.

<sup>749</sup> Antelope Valley Transit Authority, Alameda-Contra Costa Transit District, Capital Metropolitan Transportation Authority, Fort Worth Transportation Authority, Go Transit, Greater Peoria Mass Transit District, Jacksonville Transportation Authority, Manchester Transit Authority, Maryland Transit Administration, Metropolitan Atlanta Rapid Transit Authority, Middletown Transit District, Metropolitan Transit Authority, Norwalk Transit District, Omnitrans, Rockford Mass Transit District, Sandag, Sioux Area Metro, Stark Area Regional Transit Authority (SARTA), Southwest Ohio Transit Authority, and Toledo Area Regional Transit Authority.

<sup>750</sup> Brockton Area Transit Authority, Central Florida Regional Transportation Authority (LYNX), Golden Empire Transit District, Los Angeles County Metropolitan Transportation Authority, Mass Transportation Authority, Salem-Keizer Transit, Utah Transit Authority, and Washington Metropolitan Area Transit Authority (stating not applicable).

*If your answer to question 9 is “Yes,” please provide a citation to the statute(s) or ordinance(s).*

The Central Florida Regional Transportation Authority (LYNX) stated that LYNX’s General Provisions relating to technology are located on its website, <http://www.golynx.com/core/fileparse.php/150273/urlt/LYNX-General-Provisions-O1562407.pdf> (last accessed Nov. 4, 2016).

The Louisiana Department of Transportation and Development/Public Transportation cited La. Rev. Stat. § 39:1595A.

The Northeast Illinois Regional Commuter Railroad cited FTA Circular 4220.1F and the Regional Transportation Authority Act, 70 ILCS 3615.

The Milwaukee County Transit System identified: FTA Circular 4220.1F; the Federal Acquisition Regulations (FAR); the FTA Best Practice Procurement Manual; Wisconsin Administrative Code, ADM 5-11 and 50; Wis. Stat. §§ 16.70 to 16.78; and the Milwaukee County Code of Ordinances, chapter 32, sub-chapter 2.

The Tri-County Metropolitan District of Oregon cited Ore. Rev. Stat. § 279A.000, *et seq.*

10. *In your agency’s experience are there particular clauses that your agency has found to be important to include or to avoid including in technology contracts?*

Twenty agencies answered “Yes” to the question.<sup>751</sup> Twenty agencies said “No.”<sup>752</sup> Two agencies did not respond to the question.<sup>753</sup>

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<sup>751</sup> ABQ Ride (noting that the agency must include all FTA required clauses for any purchase funded by FTA), Alameda-Contra Costa Transit District (stating that the agency ensures that it has all rights to data generated by or collected in procured commercial systems), Brockton Area Transit Authority, Capital Metropolitan Transportation Authority, Central Florida Regional Transportation Authority (LYNX), Connecticut Department of Transportation, Des Moines Area Regional Transit Authority, Fort Worth Transportation Authority, Golden Empire Transit District, Greater Cleveland Regional Transit Authority, Greater Peoria Mass Transit District, Jacksonville Transportation Authority, Maryland Transit Administration, Metropolitan Atlanta Rapid Transit Authority, Northeast Illinois Regional Commuter Railroad, Salem-Keizer Transit, Sandag, San Diego Metropolitan Transit System, Tri-County Metropolitan District of Oregon, TriMet, and Utah Transit Authority.

<sup>752</sup> Antelope Valley Transit Authority, Cobb County Department of Transportation, Go Transit, Los Angeles County Metropolitan Transportation Authority, Louisiana Department of Transportation and Development/Public Transportation, Manchester Transit Authority, Mass Transportation Authority, Middletown Transit District, Milwaukee County Transit System, Metropolitan Transit Authority, Norwalk Transit District, Omnitrans, Rockford Mass Transit District, Shoreline Metro, Sioux Area Metro, Stark Area Regional Transit Authority (SARTA), Southwest Ohio Transit Authority, Toledo Area Regional Transit Authority, Topeka Metropolitan Transit Authority, and Transit Authority of Northern Kentucky.

*If your agency's answer to question 10 is "Yes," please identify and/or describe the clauses that should be included or avoided and provide copies of or links to the clauses.*

The Capital Metropolitan Transportation Authority stated that there should be clearly stated expectations for customizations, functional requirements, and the delivery timeframe.

The Maryland Transit Administration stated that clauses are required in technology agreements on the rights of ownership, particularly with respect to data generated from licensed software, and on changes, clauses that are typically included in construction contracts with labor and profit limitations.

The Metropolitan Atlanta Rapid Transit Authority stated that it is "useful to clearly delineate the ownership of (and/or royalty free licenses to use) the work product/IP rights in the subject technology" and to include audit provisions to allow "the Authority to review prior and root software versions to ensure our Authority is receiving the correct software." Also, MARTA stated that "[d]epending on the purpose of the technology, the Authority will draft specific provisions related to indemnification to protect the Authority."

Other agencies identified the inclusion of clauses for termination for convenience and for the right to retain the data from the programs,<sup>754</sup> a "proof of concept requirements,"<sup>755</sup> a no fault termination of contract,<sup>756</sup> and an agency's right to its data and any derivative work produced.<sup>757</sup>

11. *In regard to your agency's technology projects identified in response to question 2:*

a) *Who prepared the technical specifications for the technology project(s)?*

Many agencies responding to the survey stated that their technology department or other agency employees prepared the specifications for their projects<sup>758</sup> or that the agency's staff

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<sup>753</sup> Golden Gate Bridge Highway and Transportation District and Washington Metropolitan Area Transit Authority (stating not applicable).

<sup>754</sup> Fort Worth Transportation Authority.

<sup>755</sup> Golden Empire Transit District.

<sup>756</sup> Greater Peoria Mass Transit District.

<sup>757</sup> Utah Transit Authority.

<sup>758</sup> ABQ Ride, Antelope Valley Transit Authority, Connecticut Department of Transportation, Fort Worth Transportation Authority, Greater Peoria Mass Transit District, Jacksonville Transportation Authority, Los Angeles County Metropolitan Transportation Authority, Louisiana Department of Transportation and Development/Public Transportation, Omnitrans, San Diego Metropolitan Transit System, Shoreline

prepared the specifications in conjunction with an engineering firm, contractor, consultant,<sup>759</sup> or vendor.<sup>760</sup>

Some agencies reported that they used an independent contractor or consultant<sup>761</sup> or relied on an RFP.<sup>762</sup> The Capital Metropolitan Transportation Authority stated that in some cases it relied on internal stakeholders and in one case (CAD/AVL specifications) on consultants.

The Central Florida Regional Transportation Authority (LYNX) stated that the

[s]pecification for the original design were through consultant support. There was a period where the project was on “hold,” after which the design required updat[ing]. The scope was developed in-house for the consultant to update. The consultant then updated and created the specifications for the procurement of the technology.

The Milwaukee County Transit System (MCTS) stated that

[f]or the Real-Time and AVL specs, MCTS developed an internal committee and all the work was done internally. For both the fare system and MVSS projects, MCTS conducted an RFP process for qualified consultants and with both RFP’s IBI Consultants was the successful applicant. MCTS worked closely with IBI to develop each technical specification.

(b) *Were any methods used to obtain information for the preparation of the technical specifications (e.g., a request for information)?*

Twenty-eight agencies stated that they used various methods to obtain information for the preparation of technical specifications for their projects.<sup>763</sup> Nine agencies reported that they had not.<sup>764</sup> Five agencies did not respond to the question.<sup>765</sup>

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Metro, Toledo Area Regional Transit Authority, Utah Transit Authority, and Washington Metropolitan Area Transit Authority.

<sup>759</sup> Alameda-Contra Costa Transit District, Brockton Area Transit Authority, Des Moines Area Regional Transit Authority, Mass Transportation Authority, and Northeast Illinois Regional Commuter Railroad.

<sup>760</sup> Cobb County Department of Transportation, Middletown Transit District, and Norwalk Transit District.

<sup>761</sup> Golden Empire Transit District and Maryland Transit Administration.

<sup>762</sup> Stark Area Regional Transit Authority (SARTA).

<sup>763</sup> Alameda-Contra Costa Transit District (agency did an RFI before finalizing its requirements and SOW into a final offer), Brockton Area Transit Authority, Capital Metropolitan Transportation Authority, Central Florida Regional Transportation Authority (LYNX), Cobb County Department of Transportation, Connecticut Department of Transportation, Des Moines Area Regional Transit Authority, Fort Worth

The agencies that reported on their methods said that they used “expos” and trade exhibits,<sup>766</sup> contractors or consultants,<sup>767</sup> Requests for Information (RFI),<sup>768</sup> site visits and/or requests for information from other transit agencies,<sup>769</sup> vendors,<sup>770</sup> and other forms of research, including the Internet.<sup>771</sup>

The Central Florida Regional Transportation Authority (LYNX) said that the consultant released a RFI

to the industry to determine the current vendor activities related to developing similar technologies along with any vendor input on systems required to be in place to support the technology, alternatives to be considered, vendor input on whether to develop a new system or integrate with existing systems, recommended standards for a non-proprietary system, and to gauge interest in response to a future RFP.

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Transportation Authority, Go Transit, Greater Cleveland Regional Transit Authority, Greater Peoria Mass Transit District, Jacksonville Transportation Authority, Maryland Transit Administration, Metropolitan Atlanta Rapid Transit Authority, Mass Transportation Authority, Middletown Transit District, Milwaukee County Transit System, Omnitrans, Rockford Mass Transit District, Sandag, San Diego Metropolitan Transit System, Shoreline Metro, Sioux Area Metro, Stark Area Regional Transit Authority (SARTA), Southwest Ohio Transit Authority, Topeka Metropolitan Transit Authority, Tri-County Metropolitan District of Oregon, TriMet, and Washington Metropolitan Transit Authority.

<sup>764</sup> ABQ Ride, Antelope Valley Transit Authority, Golden Empire Transit District, Golden Gate Bridge Highway and Transportation District, Los Angeles County Metropolitan Transportation Authority, Louisiana Department of Transportation and Development/Public Transportation, Northeast Illinois Regional Commuter Railroad, Metropolitan Transit Authority, and Toledo Area Regional Transit Authority.

<sup>765</sup> Manchester Transit Authority, Norwalk Transit District, Salem-Keizer Transit, Transit Authority of Northern Kentucky and Utah Transit Authority.

<sup>766</sup> Brockton Area Transit Authority.

<sup>767</sup> Mass Transportation Authority.

<sup>768</sup> Capital Metropolitan Transportation Authority, Des Moines Area Regional Transit Authority, Shoreline Metro, and Washington Metropolitan Area Transit Authority.

<sup>769</sup> Brockton Area Transit Authority, Des Moines Area Regional Transit Authority, Fort Worth Transportation Authority, and San Diego Metropolitan Transit System.

<sup>770</sup> Fort Worth Transportation Authority and Maryland Transit Administration.

<sup>771</sup> Brockton Area Transit Authority, Capital Metropolitan Transportation Authority, Cobb County Department of Transportation, and Greater Peoria Mass Transit District.

The Los Angeles County Metropolitan Transportation Authority stated that although its answer to the question generally is “No,” the Authority did purchase software to identify customizations that had been done to the Oracle Enterprise Business Suite.

The Milwaukee County Transit System (MCTS) stated that for its fare system and MVSS MCTS projects it used consultants (IBI Group) to help determine technical specifications. “As subject matter experts, they were able to develop a specification without the need [for] RFI’s, cost estimates, etc.”

Omnitrans said that for one of its projects that it described in response to question 2, “[a] separate contract reviewed the then current SAP software system for the purpose of proving recommendations for an upgrade solution. The deliverables were in the form of recommendations and not technical specifications.”

c) *Was a separate contract issued for the preparation of technical specifications for the project(s)?*

Thirteen agencies reported that they had issued a separate contract for the preparation of technical specifications for their technology acquisitions.<sup>772</sup> On the other hand, twenty-seven agencies had not.<sup>773</sup> Two agencies did not respond.<sup>774</sup>

*If your answer to question 11(c) is “Yes,” please provide a copy of or a link to the contract(s) for the preparation of the technical specifications.*

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<sup>772</sup> Alameda-Contra Costa Transit District, Capital Metropolitan Transportation Authority, Central Florida Regional Transportation Authority (LYNX), Connecticut Department of Transportation, Des Moines Area Regional Transit Authority, Golden Empire Transit District, Maryland Transit Administration, Northeast Illinois Regional Commuter Railroad, Milwaukee County Transit System, Stark Area Regional Transit Authority (SARTA), Transit Authority of Northern Kentucky, Tri-County Metropolitan District of Oregon, TriMet, and Washington Metropolitan Transit Authority.

<sup>773</sup> ABQ Ride, Antelope Valley Transit Authority, Brockton Area Transit Authority, Cobb County Department of Transportation, Fort Worth Transportation Authority, Golden Gate Bridge Highway and Transportation District, Go Transit, Greater Cleveland Regional Transit Authority, Greater Peoria Mass Transit District, Jacksonville Transportation Authority, Los Angeles County Metropolitan Transportation Authority, Louisiana Department of Transportation and Development/Public Transportation, Manchester Transit Authority, Metropolitan Atlanta Rapid Transit Authority, Mass Transportation Authority, Middletown Transit District, Metropolitan Transit Authority, Norwalk Transit District, Omnitrans, Rockford Mass Transit District, Sandag, San Diego Metropolitan Transit System, Shoreline Metro, Sioux Area Metro, Southwest Ohio Transit Authority, Toledo Area Regional Transit Authority, and Topeka Metropolitan Transit Authority.

<sup>774</sup> Salem-Keizer Transit and Utah Transit Authority.

Several transit agencies provided copies of their documentation. *See* Appendix D. The Alameda-Contra Costa Transit District provided a link, <http://www.actransit.org/acpronet/consultant-services-for-cad-avl-and-radio-communication-systems/> (last accessed Nov. 4, 2016).

12. *For any project(s) identified in response to question 2 were performance-based specifications used in lieu of or in combination with technical specifications?*

Seventeen agencies answered that performance-based specifications were used in lieu of or in combination with technical specifications.<sup>775</sup> Twenty-three agencies answered “No.”<sup>776</sup> Two agencies did not respond to the question.<sup>777</sup>

13. *For any of your agency’s technology projects has your agency used cloud computing and/or other cloud-services?*

Twenty-four agencies stated that they use cloud computing and/or other cloud-services.<sup>778</sup> Eighteen agencies said that they do not.<sup>779</sup>

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<sup>775</sup> Brockton Area Transit Authority, Capital Metropolitan Transportation Authority, Connecticut Department of Transportation, Golden Empire Transit District, Golden Gate Bridge Highway and Transportation District, Greater Peoria Mass Transit District, Maryland Transit Administration, Northeast Illinois Regional Commuter Railroad, Metropolitan Transit Authority, Norwalk Transit District, Omnitrans, Sandag, San Diego Metropolitan Transit System, Shoreline Metro, Transit Authority of Northern Kentucky, Tri-County Metropolitan District of Oregon, TriMet, and Washington Metropolitan Transit Authority.

<sup>776</sup> ABQ Ride, Antelope Valley Transit Authority, Alameda-Contra Costa Transit District, Central Florida Regional Transportation Authority (LYNX), Cobb County Department of Transportation, Des Moines Area Regional Transit Authority, Fort Worth Transportation Authority, Go Transit, Greater Cleveland Regional Transit Authority, Jacksonville Transportation Authority, Los Angeles County Metropolitan Transportation Authority, Louisiana Department of Transportation and Development/Public Transportation, Manchester Transit Authority, Metropolitan Atlanta Rapid Transit Authority, Mass Transportation Authority, Middletown Transit District, Milwaukee County Transit System, Rockford Mass Transit District, Sioux Area Metro, Stark Area Regional Transit Authority (SARTA), Southwest Ohio Transit Authority, Toledo Area Regional Transit Authority, and Topeka Metropolitan Transit Authority.

<sup>777</sup> Salem-Keizer Transit and Utah Transit Authority.

<sup>778</sup> Alameda-Contra Costa Transit District (stating that it subscribes to numerous software-as-a-service (SaaS) applications such as neogov.com and govDelivery.com and that it has licensed software (*e.g.*, PeopleSoft) that it operates at a hosting facility-private cloud, as well as licensed Office365 and SharePointOnline-public private cloud), Brockton Area Transit Authority, Capital Metropolitan Transportation Authority, Central Florida Regional Transportation Authority (LYNX), Connecticut Department of Transportation, Des Moines Area Regional Transit Authority, Golden Gate Bridge Highway and Transportation District, Go Transit, Greater Cleveland Regional Transit Authority, Greater Peoria Mass Transit District, Jacksonville Transportation Authority, Los Angeles County Metropolitan Transportation Authority, Manchester Transit Authority, Metropolitan Atlanta Rapid Transit Authority,



*If your agency's answer to question 13 is "Yes," please describe your agency's experience with cloud computing and/or other cloud-services and provide a copy of or a link to your agency's agreements for the use of cloud computing.*

The Capital Metropolitan Transportation Authority identified mobile ticketing, enhanced trip planning, and fare evasion systems that use a "hosted back-end that has positively delivered the service."

The Central Florida Regional Transportation Authority (LYNX) stated that the technology it described in response to "question 2 is cloud-based, though it can be hosted in-house." However, there is a lack of experience with the technology that is not fully deployed as of the date of the survey.

The Connecticut Department of Transportation stated that it cannot "cannot use cloud computing, but the providers of the various contracts can use the Cloud for running their functionality – back office operation, pass sales, etc."

Go Transit stated that the agency is testing a tablet system that uses the Cloud for GPS location data but that the agency may switch to a local server. The agency stated that it does have a contract with a cloud-computing service but pays for service monthly based on "data drawn."

The Greater Peoria Mass Transit District said that its experience is excellent and provided a link to <http://www.poweredbystl.com/services/data-center/> (last accessed Nov. 4, 2016).

The Los Angeles County Metropolitan Transportation Authority's response referred to Salesforce.com for customer relationship management. The agency also reported that it uses Microsoft Office 365 and Amazon for an external website.

The Manchester Transit Authority stated that its scheduling software is cloud-based.

The Metropolitan Atlanta Rapid Transit Authority stated that Microsoft Office 365 is a cloud-based solution that the Authority has purchased.

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Milwaukee County Transit System, Metropolitan Transit Authority, Omnitrans, Salem-Keizer Transit, Sioux Area Metro, Southwest Ohio Transit Authority, Topeka Metropolitan Transit Authority, Tri-County Metropolitan District of Oregon, TriMet, Utah Transit Authority, and Washington Metropolitan Transit Authority.

<sup>779</sup> ABQ Ride, Antelope Valley Transit Authority, Cobb County Department of Transportation, Fort Worth Transportation Authority, Golden Empire Transit District, Louisiana Department of Transportation and Development/Public Transportation, Maryland Transit Administration, Mass Transportation Authority, Northeast Illinois Regional Commuter Railroad, Middletown Transit District, Norwalk Transit District, Rockford Mass Transit District, Sandag, San Diego Metropolitan Transit System, Shoreline Metro, Stark Area Regional Transit Authority (SARTA), Toledo Area Regional Transit Authority, and Transit Authority of Northern Kentucky.

The Milwaukee County Transit System (MCTS) said that it

purchased the Enterprise Cloud Management tool from Cradlepoint as part of the MVSS project to remotely manage vehicle configurations. ... The project is still in [its] very early stages and MCTS has not taken over [the] management of this tool from the vendor, Apollo, so MCTS has had very little experience with this cloud service at this time.

Omnitrans stated that it had purchased servers, hardware, and Veeam licenses to work with the back-up and recovery of VMware Virtual Machines.

14. *Has your agency been able to include in its technology contracts the terms that your agency wanted regarding:*

a) *Liability and/or limitations on the parties' respective liability?*

Thirty-seven agencies having technology contracts reported obtaining the clauses that they wanted regarding liability and/or limitations on the parties' respective liability.<sup>780</sup> Four agencies reported that they did not.<sup>781</sup> One agency did not respond to the question.<sup>782</sup>

b) *Indemnification?*

Thirty-six agencies reported being able to include indemnification provisions that they wanted in their technology agreements.<sup>783</sup> Four agencies stated that they did not.<sup>784</sup> Two agencies did not respond to the question.<sup>785</sup>

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<sup>780</sup> ABQ Ride, Antelope Valley Transit Authority, Alameda-Contra Costa Transit District, Brockton Area Transit Authority, Capital Metropolitan Transportation Authority, Central Florida Regional Transportation Authority (LYNX), Cobb County Department of Transportation, Connecticut Department of Transportation, Des Moines Area Regional Transit Authority, Fort Worth Transportation Authority, Golden Empire Transit District, Golden Gate Bridge Highway and Transportation District, Go Transit, Greater Peoria Mass Transit District, Jacksonville Transportation Authority, Los Angeles County Metropolitan Transportation Authority, Louisiana Department of Transportation and Development/Public Transportation, Manchester Transit Authority, Maryland Transit Administration, Metropolitan Atlanta Rapid Transit Authority, Mass Transportation Authority, Milwaukee County Transit System, Metropolitan Transit Authority, Norwalk Transit District, Rockford Mass Transit District, Sandag, San Diego Metropolitan Transit System, Shoreline Metro, Sioux Area Metro, Stark Area Regional Transit Authority (SARTA), Southwest Ohio Transit Authority, Toledo Area Regional Transit Authority, Topeka Metropolitan Transit Authority, Transit Authority of Northern Kentucky Tri-County Metropolitan District of Oregon, TriMet, Utah Transit Authority, and Washington Metropolitan Transit Authority.

<sup>781</sup> Greater Cleveland Regional Transit Authority, Northeast Illinois Regional Commuter Railroad, Middletown Transit District, and Omnitrans.

<sup>782</sup> Salem-Keizer Transit.

c) *Representations and warranties?*

Thirty-four agencies stated that they had secured the terms that they wanted in their contracts regarding representations and warranties.<sup>786</sup> Six agencies said that they did not.<sup>787</sup> Two agencies did not respond to the question.<sup>788</sup>

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<sup>783</sup> ABQ Ride, Antelope Valley Transit Authority, Alameda-Contra Costa Transit District, Brockton Area Transit Authority, Capital Metropolitan Transportation Authority, Central Florida Regional Transportation Authority (LYNX), Cobb County Department of Transportation, Connecticut Department of Transportation, Des Moines Area Regional Transit Authority, Fort Worth Transportation Authority, Golden Empire Transit District, Golden Gate Bridge Highway and Transportation District, Go Transit, Greater Peoria Mass Transit District, Jacksonville Transportation Authority, Los Angeles County Metropolitan Transportation Authority, Louisiana Department of Transportation and Development/Public Transportation, Manchester Transit Authority, Maryland Transit Administration, Metropolitan Atlanta Rapid Transit Authority, Mass Transportation Authority, Milwaukee County Transit System, Metropolitan Transit Authority, Norwalk Transit District, Rockford Mass Transit District, Sandag, San Diego Metropolitan Transit System, Shoreline Metro, Sioux Area Metro, Stark Area Regional Transit Authority (SARTA), Southwest Ohio Transit Authority, Toledo Area Regional Transit Authority, Topeka Metropolitan Transit Authority, Tri-County Metropolitan District of Oregon, TriMet, Utah Transit Authority, and Washington Metropolitan Transit Authority.

<sup>784</sup> Greater Cleveland Regional Transit Authority, Northeast Illinois Regional Commuter Railroad, Middletown Transit District, and Omnitrans.

<sup>785</sup> Salem-Keizer Transit and Transit Authority of Northern Kentucky.

<sup>786</sup> ABQ Ride, Antelope Valley Transit Authority, Alameda-Contra Costa Transit District, Brockton Area Transit Authority, Capital Metropolitan Transportation Authority, Central Florida Regional Transportation Authority (LYNX), Cobb County Department of Transportation, Connecticut Department of Transportation, Des Moines Area Regional Transit Authority, Fort Worth Transportation Authority, Golden Empire Transit District, Golden Gate Bridge Highway and Transportation District, Go Transit, Greater Peoria Mass Transit District, Los Angeles County Metropolitan Transportation Authority, Manchester Transit Authority, Maryland Transit Administration, Metropolitan Atlanta Rapid Transit Authority, Mass Transportation Authority, Northeast Illinois Regional Commuter Railroad, Milwaukee County Transit System, Metropolitan Transit Authority, Norwalk Transit District, Rockford Mass Transit District, Sandag, San Diego Metropolitan Transit System, Sioux Area Metro, Stark Area Regional Transit Authority (SARTA), Southwest Ohio Transit Authority, Toledo Area Regional Transit Authority, Topeka Metropolitan Transit Authority, Transit Authority of Northern Kentucky, Tri-County Metropolitan District of Oregon, TriMet, and Washington Metropolitan Transit Authority.

<sup>787</sup> Greater Cleveland Regional Transit Authority, Jacksonville Transportation Authority, Louisiana Department of Transportation and Development/Public Transportation, Middletown Transit District, Omnitrans, and Shoreline Metro.

<sup>788</sup> Salem-Keizer Transit and Utah Transit Authority.

15. *In regard to the project(s) identified in response to question 2 is any of the technology designed or developed by for your agency:*

a) *Copyrightable?*

Five agencies answered “Yes” to the question.<sup>789</sup> Thirty-five agencies said “No,”<sup>790</sup> and two agencies did not respond to the question.<sup>791</sup>

The Central Florida Regional Transportation Authority (LYNX) observed that the work for one of its projects was copyrightable “by the vendor, not by LYNX.”

b) *Patentable?*

Two agencies answered “Yes” to the question.<sup>792</sup> Thirty-eight agencies answered “No.”<sup>793</sup> Two agencies did not respond to the question.<sup>794</sup>

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<sup>789</sup> Central Florida Regional Transportation Authority (LYNX), Jacksonville Transportation Authority, Shoreline Metro, Transit Authority of Northern Kentucky, and Washington Metropolitan Transit Authority.

<sup>790</sup> ABQ Ride, Antelope Valley Transit Authority, Alameda-Contra Costa Transit District, Brockton Area Transit Authority, Capital Metropolitan Transportation Authority, Cobb County Department of Transportation, Connecticut Department of Transportation, Des Moines Area Regional Transit Authority, Fort Worth Transportation Authority, Golden Empire Transit District, Golden Gate Bridge Highway and Transportation District, Go Transit, Greater Cleveland Regional Transit Authority, Greater Peoria Mass Transit District, Los Angeles County Metropolitan Transportation Authority, Louisiana Department of Transportation and Development/Public Transportation, Manchester Transit Authority, Maryland Transit Administration, Metropolitan Atlanta Rapid Transit Authority, Mass Transportation Authority, Northeast Illinois Regional Commuter Railroad, Middletown Transit District, Milwaukee County Transit System, Metropolitan Transit Authority, Norwalk Transit District, Omnitrans, Rockford Mass Transit District, Sandag, San Diego Metropolitan Transit System, Sioux Area Metro, Stark Area Regional Transit Authority (SARTA), Southwest Ohio Transit Authority, Toledo Area Regional Transit Authority, Topeka Metropolitan Transit Authority, and Tri-County Metropolitan District of Oregon, TriMet.

<sup>791</sup> Salem-Keizer Transit and Utah Transit Authority.

<sup>792</sup> Transit Authority of Northern Kentucky and Tri-County Metropolitan District of Oregon, TriMet.

<sup>793</sup> ABQ Ride, Antelope Valley Transit Authority, Alameda-Contra Costa Transit District, Brockton Area Transit Authority, Capital Metropolitan Transportation Authority, Central Florida Regional Transportation Authority (LYNX), Cobb County Department of Transportation, Connecticut Department of Transportation, Des Moines Area Regional Transit Authority, Fort Worth Transportation Authority, Golden Empire Transit District, Golden Gate Bridge Highway and Transportation District, Go Transit, Greater Cleveland Regional Transit Authority, Greater Peoria Mass Transit District, Jacksonville Transportation Authority, Los Angeles County Metropolitan Transportation Authority, Louisiana Department of Transportation and Development/Public Transportation, Manchester Transit Authority, Maryland Transit Administration, Metropolitan Atlanta Rapid Transit Authority, Mass Transportation Authority, Northeast Illinois Regional Commuter Railroad, Middletown Transit District, Milwaukee

16. *For your agency's technology project(s) has your agency:*

a) *Registered a copyright for any aspect of a technology project?*

No agency reported that it had registered a copyright. Forty agencies specifically said "No."<sup>795</sup> Two agencies did not respond.<sup>796</sup>

b) *Filed for and/or obtained a patent on any discovery resulting from a technology project?*

No agency reported filing for and/or obtaining a patent on any discovery resulting from a technology project. Forty agencies specifically said "No."<sup>797</sup> Two agencies did not respond to the question.<sup>798</sup>

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County Transit System, Metropolitan Transit Authority, Norwalk Transit District, Omnitrans, Rockford Mass Transit District, Sandag, San Diego Metropolitan Transit System, Shoreline Metro, Sioux Area Metro, Stark Area Regional Transit Authority (SARTA), Southwest Ohio Transit Authority, Toledo Area Regional Transit Authority, Topeka Metropolitan Transit Authority, and Washington Metropolitan Transit Authority.

<sup>794</sup> Salem-Keizer Transit and Utah Transit Authority.

<sup>795</sup> ABQ Ride, Antelope Valley Transit Authority, Alameda-Contra Costa Transit District, Brockton Area Transit Authority, Capital Metropolitan Transportation Authority, Central Florida Regional Transportation Authority (LYNX), Cobb County Department of Transportation, Connecticut Department of Transportation, Des Moines Area Regional Transit Authority, Fort Worth Transportation Authority, Golden Empire Transit District, Greater Cleveland Regional Transit Authority, Greater Peoria Mass Transit District, Jacksonville Transportation Authority, Los Angeles County Metropolitan Transportation Authority, Louisiana Department of Transportation and Development/Public Transportation, Manchester Transit Authority, Maryland Transit Administration, Metropolitan Atlanta Rapid Transit Authority, Mass Transportation Authority, Northeast Illinois Regional Commuter Railroad, Middletown Transit District, Milwaukee County Transit System, Metropolitan Transit Authority, Norwalk Transit District, Omnitrans, Rockford Mass Transit District, Sandag, San Diego Metropolitan Transit System, Shoreline Metro, Sioux Area Metro, Stark Area Regional Transit Authority (SARTA), Southwest Ohio Transit Authority, Toledo Area Regional Transit Authority, Topeka Metropolitan Transit Authority, Transit Authority of Northern Kentucky, Tri-County Metropolitan District of Oregon, TriMet, and Washington Metropolitan Transit Authority.

<sup>796</sup> Salem-Keizer Transit and Utah Transit Authority.

<sup>797</sup> ABQ Ride, Antelope Valley Transit Authority, Alameda-Contra Costa Transit District, Brockton Area Transit Authority, Capital Metropolitan Transportation Authority, Central Florida Regional Transportation Authority (LYNX), Cobb County Department of Transportation, Connecticut Department of Transportation, Des Moines Area Regional Transit Authority, Fort Worth Transportation Authority, Golden Empire Transit District, Golden Gate Bridge Highway and Transportation District, Go Transit, Greater Cleveland Regional Transit Authority, Greater Peoria Mass Transit District, Jacksonville Transportation Authority, Los Angeles County Metropolitan Transportation Authority, Louisiana

*If your answer to question 16(a) and/or (b) is “Yes,” please provide details.*

Tri-County Metropolitan District of Oregon stated that it is in the process of “trademarking” its electronic fare logo.

17. *Has there been any litigation involving your agency and the technology project(s) identified in response to question 2?*

Four agencies reported that they had been involved in litigation involving one or more of their technology projects.<sup>799</sup> However, thirty-seven agencies said that they had not had any litigation.<sup>800</sup> One agency did not respond to the question.<sup>801</sup>

*If your answer to question 17 is “Yes,” please provide details and a citation to any decision in any cases that your agency has had.*

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Department of Transportation and Development/Public Transportation, Manchester Transit Authority, Maryland Transit Administration, Metropolitan Atlanta Rapid Transit Authority, Mass Transportation Authority, Northeast Illinois Regional Commuter Railroad, Middletown Transit District, Milwaukee County Transit System, Metropolitan Transit Authority, Norwalk Transit District, Omnitrans, Rockford Mass Transit District, Sandag, San Diego Metropolitan Transit System, Shoreline Metro, Sioux Area Metro, Stark Area Regional Transit Authority (SARTA), Southwest Ohio Transit Authority, Toledo Area Regional Transit Authority, Topeka Metropolitan Transit Authority, Transit Authority of Northern Kentucky, Tri-County Metropolitan District of Oregon, TriMet, and Washington Metropolitan Transit Authority.

<sup>798</sup> Salem-Keizer Transit and Utah Transit Authority.

<sup>799</sup> Des Moines Area Regional Transit Authority, Golden Gate Bridge Highway and Transportation District, Metropolitan Transit Authority, and Toledo Area Regional Transit Authority.

<sup>800</sup> ABQ Ride, Antelope Valley Transit Authority, Alameda-Contra Costa Transit District, Brockton Area Transit Authority, Capital Metropolitan Transportation Authority, Central Florida Regional Transportation Authority (LYNX), Cobb County Department of Transportation, Connecticut Department of Transportation, Fort Worth Transportation Authority, Golden Empire Transit District, Go Transit, Greater Cleveland Regional Transit Authority, Greater Peoria Mass Transit District, Jacksonville Transportation Authority, Los Angeles County Metropolitan Transportation Authority, Louisiana Department of Transportation and Development/Public Transportation, Manchester Transit Authority, Maryland Transit Administration, Metropolitan Atlanta Rapid Transit Authority, Mass Transportation Authority, Northeast Illinois Regional Commuter Railroad, Middletown Transit District, Milwaukee County Transit System, Norwalk Transit District, Omnitrans, Rockford Mass Transit District, Salem-Keizer Transit, Sandag, San Diego Metropolitan Transit System, Shoreline Metro, Sioux Area Metro, Stark Area Regional Transit Authority (SARTA), Southwest Ohio Transit Authority, Topeka Metropolitan Transit Authority, Transit Authority of Northern Kentucky, Tri-County Metropolitan District of Oregon, TriMet, and Washington Metropolitan Transit Authority.

<sup>801</sup> Utah Transit Authority.

The Des Moines Area Regional Transit Authority said that it has been sued over “farebox and document management” but provided no additional details.

The Maryland Transit Administration stated that protests were filed regarding its Bus Unified Systems Architecture project after the original Letter of Intent was given to the selected vendor.

The Toledo Area Regional Transit Authority reported that in 2013 there was an action against the agency alleging that the technology it used infringed a patent. The agency said that the action was decided in its favor, but provided no additional details.

18. *Even if your agency is subject to public procurement laws is your agency allowed to negotiate to obtain a better price for your agency’s technology project(s)?*

Thirty-one transit agencies stated that even though the agency is subject to public procurement laws the agency is allowed to negotiate to obtain a better price for its technology project.<sup>802</sup> Ten agencies said that they are not allowed to negotiate to obtain a better price for a technology project.<sup>803</sup> One agency did not respond.<sup>804</sup>

*If your answer to question 18 is “Yes,” please provide details and a citation to any statute or ordinance that allows for such negotiation.*

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<sup>802</sup> ABQ Ride, Antelope Valley Transit Authority (identifying FTA), Alameda-Contra Costa Transit District, Brockton Area Transit Authority, Capital Metropolitan Transportation Authority, Central Florida Regional Transportation Authority (LYNX), Cobb County Department of Transportation, Connecticut Department of Transportation, Fort Worth Transportation Authority, Golden Empire Transit District, Golden Gate Bridge Highway and Transportation District, Go Transit, Greater Cleveland Regional Transit Authority, Los Angeles County Metropolitan Transportation Authority, Manchester Transit Authority, Maryland Transit Administration, Metropolitan Atlanta Rapid Transit Authority, Northeast Illinois Regional Commuter Railroad, Milwaukee County Transit System, Metropolitan Transit Authority, Norwalk Transit District, Omnitrans, Sandag, San Diego Metropolitan Transit System, Shoreline Metro, Sioux Area Metro, Southwest Ohio Transit Authority, Transit Authority of Northern Kentucky Tri-County Metropolitan District of Oregon, TriMet (*citing* Ore. Rev. Stat. § 279A.000, *et seq.*), Utah Transit Authority, and Washington Metropolitan Transit Authority.

<sup>803</sup> Des Moines Area Regional Transit Authority, Greater Peoria Mass Transit District, Jacksonville Transportation Authority, Louisiana Department of Transportation and Development/Public Transportation, Mass Transportation Authority, Middletown Transit District, Rockford Mass Transit District, Stark Area Regional Transit Authority (SARTA), Toledo Area Regional Transit Authority, and Topeka Metropolitan Transit Authority (*citing* the WMATA Compact 73).

<sup>804</sup> Salem-Keizer Transit.

One agency noted that in a procurement conducted by competitive bidding no negotiations are permitted.<sup>805</sup> The Northeast Illinois Regional Commuter Railroad observed that there may be negotiations if a single bid is received but when using an RFP negotiations are permitted with the highest ranked firm.

The Norwalk Transit District also observed that with RFPs the FTA allows for a best and final offer. Other agencies also referred to federal procurement guidelines and the use of RFPs and best value procurement.<sup>806</sup> As explained by Omnitrans, an agency

is permitted [to] evaluate and compare factors in addition to cost in order to select the most advantageous offer. FTA C 4220.1F supports Best Value procurements for technology when the recipient bases its determination [on] which proposals represent the “best value” [based] on an analysis of the tradeoff of qualitative technical factors and price or cost factors.

Likewise, the Milwaukee County Transit System said that “[w]hen we do an RFP we are allowed to negotiate price” (*citing* Milwaukee County Ordinances, chapter 32, sub-chapter 2-32.36 and FTA Circular 4220.1F, chapter VI).

The Maryland Transit Administration stated that based on the Maryland Code of Regulations it is allowed to negotiate “on equivalent terms with all eligible vendors during Best and Final Offer prior to project award.”

The Metropolitan Atlanta Rapid Transit Authority stated that “[d]epending on the technology, the Authority has the ability to contract directly with a company and negotiate a contract that is in the best interests of the Authority....”

19. *Please identify a technology project or projects that your agency has had that in your agency’s opinion would make a good case study for the Report.*

Although two agencies indicated that their projects were “straightforward” or “standard” in nature,<sup>807</sup> numerous agencies referred to projects that were of particular interest or importance to them.<sup>808</sup>

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<sup>805</sup> Go Transit.

<sup>806</sup> Brockton Area Transit Authority, Capital Metropolitan Transportation Authority (*citing* “best value procurement”), Golden Empire Transit District, Los Angeles County Metropolitan Transportation Authority, and San Diego Metropolitan Transit System.

<sup>807</sup> Cobb County Department of Transportation (*stating* that all of its projects have been “straightforward”) and Fort Worth Transportation Authority (*stating* that “[m]ost of our projects were pretty standard issue transit upgrades needed for an agency lagging behind”).

<sup>808</sup> Capital Metropolitan Transportation Authority (*identifying* mobile ticketing and the implementation of innovative/emerging technology within a strict timeline); Connecticut Department of Transportation (*stating* that had had an ITS project that involved the agency’s in-house attorney, an attorney from the



The Alameda-Contra Costa Transit District identified one of its largest systems project to date, the replacement of its Computer-Aided Dispatch/Automatic Vehicle Location (CAD/AVL) system.

This \$30M project will replace our first-generation CAD/AVL system implemented around the year 2000. We first developed a rough set of requirements based on our own experience with the first-gen system. We then competitively engaged a transit engineering firm to refine our draft requirements into a Scope of Work, which was issued as an RFI. Based on the responses received, we selected the three best firms and issued the final RFP to them. After an extensive review of their proposals, including site visits to several of their current customers and a BAFO round, we made a contract award to Clever Devices.

The Louisiana Department of Transportation and Development/Public Transportation identified its

Statewide Transit Tracking and Reporting System (STTARS) [that] is used by transit providers to record ridership data and vehicle usage. This information could be used to analyze data recorded by STTARS to illustrate the utilization and efficiency of Public Transportation in rural areas in the state of Louisiana.

The Northeast Illinois Regional Commuter Railroad identified its procurement for the Positive Train Control (PTC) System Integrator Services described in response to question 2 as particularly important.

20. *Has your agency developed written guidance and/or a set of best practices for your agency's technology contracting and projects?*

Ten agencies reported that their agency has developed written guidance and/or a set of best practices for the agency's technology contracting and projects.<sup>809</sup> Twenty-nine agencies reported that they had not.<sup>810</sup> Three agencies did not respond to the question.<sup>811</sup>

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State's procuring agency, and the Attorney General's Office); Des Moines Area Regional Transit Authority (referring to its CAD/AVL system and procurement and financial system); Greater Peoria Mass Transit District (identifying it project(s) for telecommunication and high speed fiber line RFP); Jacksonville Transportation Authority (referring to its ERP (Project Firefly), real-time passenger information, and CAD/AVL projects); Maryland Transit Administration (Bus Unified Systems Architecture project); San Diego Metropolitan Transit System (Nextfare System and SAP ERP/EAM projects); and Toledo Area Regional Transit Authority (identifying a project enabling the purchasing of fare passes using a cellular phone RFID/QR validation while on the bus).

<sup>809</sup> Cobb County Department of Transportation, Connecticut Department of Transportation, Des Moines Area Regional Transit Authority, Fort Worth Transportation Authority, Golden Empire Transit District,

*If your answer is “Yes,” please provide a copy of or a link to the guidance and/or best practices.*

Transit agencies responding to the survey provided documentation that is included in Appendix D. The Louisiana Department of Transportation and Development/Public Transportation provided a link to <http://www.doa.la.gov/Pages/ots/Procurement.aspx> (last accessed Nov. 4, 2016).

The Connecticut Department of Transportation stated that although “[t]here are clear basic procurement rules ... [t]here are some disagreements about how clear the technology procurement rules are and how they are interpreted.”

The Golden Empire Transit District reported that its technology procurements follow the agency’s procurement guidelines.

21. *Please provide any additional information that your agency would like to furnish regarding its technology projects, practices, and experience with the same.*

The Capital Metropolitan Transportation Authority said that procurement of and contracting for emerging technologies are a struggle given the vendor market and regulations and policies and the “leveraging [of] that investment within only sole source guidelines.”

The Manchester Transit Authority stated that it handles technology procurements the same as any other procurement.

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Louisiana Department of Transportation and Development/Public Transportation, Metropolitan Transit Authority, San Diego Metropolitan Transit System, Shoreline Metro, and Tri-County Metropolitan District of Oregon, TriMet.

<sup>810</sup> ABQ Ride, Antelope Valley Transit Authority, Alameda-Contra Costa Transit District, Brockton Area Transit Authority, Capital Metropolitan Transportation Authority, Central Florida Regional Transportation Authority (LYNX), Go Transit, Greater Cleveland Regional Transit Authority, Greater Peoria Mass Transit District, Jacksonville Transportation Authority, Los Angeles County Metropolitan Transportation Authority, Manchester Transit Authority, Maryland Transit Administration, Metropolitan Atlanta Rapid Transit Authority, Mass Transportation Authority, Northeast Illinois Regional Commuter Railroad, Middletown Transit District, Milwaukee County Transit System, Norwalk Transit District, Omnitrans, Rockford Mass Transit District, Sandag, Sioux Area Metro, Stark Area Regional Transit Authority (SARTA), Southwest Ohio Transit Authority, Toledo Area Regional Transit Authority, Topeka Metropolitan Transit Authority, Transit Authority of Northern Kentucky, Washington Metropolitan Transit Authority.

<sup>811</sup> Golden Gate Bridge Highway and Transportation District, Salem-Keizer Transit, and Utah Transit Authority.

Finally, the Maryland Transit Administration (MTA) summarized some of the issues with technology contracting that transit agencies confront.

The main difficulty MTA has had with procurement of technology projects is in the continued use of previously procured software. This comes in two forms. One being the upgrade and maintenance of this software. From a procurement standpoint, it is not understood that the manufacturers of the existing software are the only ones that can maintain the software, regardless of software being commercial-off-the-shelf (COTS). Large companies that provide highly specialized software invest significant amounts of money in the development of the software. As such, the software is licensed for use but does not become the property of the user. Similarly, the software must be maintained by those that developed it, beyond simple updates that can be loaded by a trained systems administrator.

The second issue with this is seeking additional technologies that must interface with existing technologies. This becomes particularly difficult when vendors are competitors for both new and existing technology and often make it difficult to work together. This can add significant burden to the agency in either time or money. It can take time to work out contractual relationships that lead to the desired end product. It can cost significant money if the agency has to become the integrator for the two technologies, dealing with both vendors and separate contractual arrangements.

Another difficulty in transit technology procurement is in distinguishing the differences in delivery of purely software vs. systems vs. construction. They all require subtle differences in contracting mechanisms. A cloud based software procurement would necessarily be different than a software/hardware/installation procurement.

**CHECKLIST OF CLAUSES FOR TECHNOLOGY CONTRACTS**

**A.**

**Acceptance**

Acceptance, final<sup>812</sup>  
Acceptance, final, full system deployment<sup>813</sup>  
Acceptance/rejection<sup>814</sup>  
Acceptance testing, system go-live<sup>815</sup>

**Accident prevention**

Accident prevention<sup>816</sup>

**Acronyms and abbreviations**

Acronyms and abbreviations<sup>817</sup>

**Americans with Disabilities Act**

Access rights, persons with disabilities<sup>818</sup>  
Americans with Disabilities Act<sup>819</sup>

**Approval**

Approval, shareholder<sup>820</sup>

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<sup>812</sup> Appendix G, item 7, art. IV, ¶ 5.

<sup>813</sup> Appendix G, item 7, art. IV, ¶ 6.

<sup>814</sup> Landy and Mastrobattista, *supra* note 16, at 196 (*e.g.*, acceptance criteria, acceptance testing).

<sup>815</sup> Appendix G, item 7, art. IV, ¶ 4.

<sup>816</sup> Appendix G, item 4, Exhibit B, LYNX General Provisions, ¶ 6.01.

<sup>817</sup> Appendix G, item 4, Exhibit A-1, at 28.

<sup>818</sup> Appendix G, item 17, exhibit C, ¶ 28.

<sup>819</sup> Appendix G, item 4, Exhibit B, LYNX General Provisions, ¶ 6.01.02.

## **Assignment**

Assignment/assignability<sup>821</sup>  
Assignment of responsibilities<sup>822</sup>  
Assignment to additional government purchasers<sup>823</sup>

## **Attorney's fees**

Attorney's fees<sup>824</sup>

## **Audits and inspections**

Audit and adjustment<sup>825</sup>  
Audit and inspection<sup>826</sup>

## **B.**

## **Best's rating**

Best's rating<sup>827</sup>

## **Bonds**

Bond, payment<sup>828</sup>  
Bond, performance<sup>829</sup>

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<sup>820</sup> Appendix G, item 7, art. III, ¶ 10.

<sup>821</sup> Appendix G, item 4, ¶ 19(d); item 5, ¶ 12; item 7, art. VI, ¶ 26; and item 17, exhibit C, ¶ 5.

<sup>822</sup> Appendix G, item 2, ¶ 5.0.

<sup>823</sup> Appendix G, item 4, ¶ 19(e).

<sup>824</sup> Appendix G, item 4, ¶ 19(b) and item 7, art. IX, ¶ 9.

<sup>825</sup> Appendix G, item 13, SC 6.

<sup>826</sup> Appendix G, item 4, Exhibit B, LYNX General Provisions, ¶ 6.01.04 and item 15, ¶ xv, at 4.

<sup>827</sup> Appendix G, item 7, art. VI, ¶ 20.

<sup>828</sup> Appendix G, item 7, art. V, ¶ 4.

<sup>829</sup> Appendix G, item 7, art. V, ¶ 3.

Bonds, retention, and rates<sup>830</sup>

## C.

### City

City representative<sup>831</sup>  
City responsibilities<sup>832</sup>

### Civil rights

Civil rights<sup>833</sup>  
Civil rights and employment<sup>834</sup>  
Federal civil rights requirements<sup>835</sup>

### Communications

Communications System Engineering Project<sup>836</sup>

### Compensation

Compensation<sup>837</sup>

### Confidential information

Confidential and trade secret information (re: intelligent transportation technology solutions)<sup>838</sup>  
Right-to-know<sup>839</sup>

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<sup>830</sup> Appendix G, item 16, § 52.10.

<sup>831</sup> Appendix G, item 8, art. II.

<sup>832</sup> Appendix G, item 8, art. IV.

<sup>833</sup> Appendix G, item 4, Exhibit B, LYNX General Provisions, ¶ 6.01.05.

<sup>834</sup> Appendix G, item 14, ¶ 5(A).

<sup>835</sup> Appendix G, item 14, ¶ 5(B).

<sup>836</sup> Appendix G, item 18.

<sup>837</sup> Appendix G, item 5, ¶ 2 and item 14, ¶ 2.

<sup>838</sup> Appendix G, item 4, Exhibit A-1.

## Contracts

Additional/affiliated business units, applicability to  
Agreement, interpretation of<sup>840</sup>  
Agreement, term of<sup>841</sup>  
Amendments (examples)<sup>842</sup>  
Changes to the agreement<sup>843</sup>  
Conditions, supplementary<sup>844</sup>  
Contract, amendment of<sup>845</sup>  
Contract, types of (*e.g.*, fixed price)<sup>846</sup>  
Cost principles, compliance with<sup>847</sup>  
Definitions (examples)<sup>848</sup>  
Purpose, project or contract<sup>849</sup>  
Recitals (examples)<sup>850</sup>  
Risk allocation<sup>851</sup>  
Scope and description<sup>852</sup>

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<sup>839</sup> The provision may be included to protect a vendor's confidential business records that are in the possession of the government.

<sup>840</sup> Appendix G, item 15, § 13.

<sup>841</sup> Appendix G, item 17, exhibit C, ¶ 3.

<sup>842</sup> Appendix G, item 3, at 1-3.

<sup>843</sup> Although the contract may allow for changes, changes that are outside the scope of the contract may require the use of the procurement process.

<sup>844</sup> Appendix G, item 13, SC 1.

<sup>845</sup> Appendix G, item 15, § 18.

<sup>846</sup> Appendix G, item 7, art. II, ¶ 1.

<sup>847</sup> Appendix G, item 17, exhibit C, ¶ 10.

<sup>848</sup> Appendix G, item 4, ¶ 2.

<sup>849</sup> Appendix G, item 7, art. IV, ¶ 1.

<sup>850</sup> Appendix G, item 4, at 1.

<sup>851</sup> Landy and Mastrobattista, *supra* note 16, at 211 (*e.g.*, remedies, limitations, damage caps).

<sup>852</sup> Appendix G, item 14, ¶ 1.

## **Contracts, change orders**

Change orders<sup>853</sup>  
Changes<sup>854</sup>  
Changes to contract<sup>855</sup>  
Work, extra/change orders<sup>856</sup>

## **Contract, documents**

Contract documents<sup>857</sup>  
Contract order of precedence<sup>858</sup>  
Component parts of the contract (*e.g.*, statement of work, functional requirements, project schedule)<sup>859</sup>  
Order-of-Priority of Documents<sup>860</sup>  
Ownership of documents<sup>861</sup>

## **Contract, general provisions**

General provisions<sup>862</sup>  
Standard terms and conditions<sup>863</sup>

## **Contract, price**

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<sup>853</sup> Appendix G, item 2, ¶ 6.0.

<sup>854</sup> Appendix G, item 4, Exhibit B, LYNX General Provisions, ¶ 6.02.03; item 5, ¶ 10; and item 13, SC 5.

<sup>855</sup> Appendix G, item 14, ¶ 7.

<sup>856</sup> Appendix G, item 7, art. III, ¶ 9.

<sup>857</sup> Appendix G, item 2, ¶ 4.0; item 4, ¶ 3; and item 7, art. III, ¶ 2.

<sup>858</sup> Appendix G, item 3, ¶ 4.

<sup>859</sup> Appendix G, item 3, ¶ 2.

<sup>860</sup> The purpose of the order-of-priority clause is to resolve internal conflicts in the documents.

<sup>861</sup> Appendix G, item 2, ¶ 13.0 and item 17, exhibit C, ¶ 18.

<sup>862</sup> Appendix G, item 4, Exhibit B, LYNX General Provisions and item 7, art. IX.

<sup>863</sup> Appendix G, item 8, Exhibit A, at 16.



Contract price and payments<sup>864</sup>  
Costs/fees<sup>865</sup>  
Options, priced<sup>866</sup>  
Price and adjustments for regulatory changes<sup>867</sup>

### **Contract, term**

Term, contract<sup>868</sup>  
Term, initial<sup>869</sup>  
Term, options<sup>870</sup>  
Term, project<sup>871</sup>

### **Civil rights**

Civil rights (Title VI of the Civil Rights Act; Age Discrimination Act, Americans with Disabilities Act; and federal transit law (49 U.S.C. § 5332)<sup>872</sup>

### **Confidential information**

Confidentiality<sup>873</sup>  
Confidential information (including trade secrets)<sup>874</sup>  
Confidential and privileged information<sup>875</sup>

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<sup>864</sup> Appendix G, item 2 ¶ 3.0.

<sup>865</sup> Appendix G, item 1, § 2.

<sup>866</sup> Appendix G, item 3, ¶ 7.

<sup>867</sup> Appendix G, item 1, § 4.16 and item 2, ¶ 7.0.

<sup>868</sup> Appendix G, item 2, ¶ 2.0; item 7, art. 1, ¶ 1 and art. IV, ¶ 2; and item 13, SC 2.

<sup>869</sup> Appendix G, item 4, ¶ 5(a).

<sup>870</sup> Appendix G, item 4, ¶ 5(b).

<sup>871</sup> Appendix G, item 1, § 2.

<sup>872</sup> Appendix G, item 1, § 3.9.

<sup>873</sup> Landy and Mastrobattista, *supra* note 16, at 210 (*e.g.*, applicable to non-public information provided by a party; methods for identifying and protecting confidential information).

<sup>874</sup> Appendix G, item 4, ¶ 16(a).

<sup>875</sup> Appendix G, item 7, art. VI, ¶ 22.

## Conflict of interest

Conflict of interest<sup>876</sup>  
Conflict of interest(s), prohibition of<sup>877</sup>  
Non-collusion<sup>878</sup>  
Prohibited interests and conflicts of interest<sup>879</sup>

## Contractors

Background checks<sup>880</sup>  
Change of control or ownership<sup>881</sup>  
Contractor, qualifications of<sup>882</sup>  
Contractor's obligations<sup>883</sup>  
Contractor, obligations of  
Contractor, representations of<sup>884</sup>  
Contractor responsibility<sup>885</sup>  
Contractor, suspension and disbarment<sup>886</sup>  
Debarment and suspension<sup>887</sup>  
Multiple Contractors<sup>888</sup>

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<sup>876</sup> Appendix G, item 3, ¶ 13.

<sup>877</sup> Appendix G, item 1, § 4.31.

<sup>878</sup> Appendix G, item 14, exhibit 1-A, ¶ B, at 2.

<sup>879</sup> Appendix G, item 14, exhibit 1-A, ¶ A.1, at 1.

<sup>880</sup> *E.g.*, a contractor's employees and the employees of any subcontractors.

<sup>881</sup> Landy and Mastrobattista, *supra* note 16, at 228 (*e.g.*, the vendor or licensor).

<sup>882</sup> Appendix G, item 7, art. VI, ¶ 2.

<sup>883</sup> Appendix G, item 4, ¶ 7 and item 7, art. VI.

<sup>884</sup> Appendix G, item 7, art. VI, ¶ 2.

<sup>885</sup> *E.g.*, a certification that a vendor and subcontractors are not under suspension or debarment and that a vendor has no unpaid tax obligations.

<sup>886</sup> Appendix G, item 4, Exhibit B, LYNX General Provisions, ¶ 6.03.01.

<sup>887</sup> Appendix G, item 1, § 4.27.

<sup>888</sup> Agreements involving multiple contractors should state the contractors' respective risks, responsibilities, and schedules and require the contractors to cooperate with one another.

Obligations to the transit agency<sup>889</sup>

## Copyright

Copyrights and data, federal rights in<sup>890</sup>  
Copyrights and data, rights in<sup>891</sup>

## Copyrights, federal restrictions<sup>892</sup>

Infringement, defined

## D.

## Damages

Damages, categories of  
Damages, liquidated damages  
Damages, limitations on<sup>893</sup>

## Data

Data, retrieval and use<sup>894</sup>  
Data, security of  
Data, transmission of<sup>895</sup>  
Ownership and use of data  
Remote access (granted or denied)

## Default

Default by transit agency<sup>896</sup>

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<sup>889</sup> Appendix G, item 2, ¶ 10.0.

<sup>890</sup> Appendix G, item 17, exhibit C, ¶ 27(C).

<sup>891</sup> Appendix G, item 17, exhibit C, ¶ 27.

<sup>892</sup> Appendix G, item 17, exhibit C, ¶ 27(B).

<sup>893</sup> Landy and Mastrobattista, *supra* note 16, at 214-215 (e.g., damages excluded, damage caps, mutual damages limitations provision).

<sup>894</sup> Appendix G, item 8, Exhibit A, at 5.

<sup>895</sup> Appendix G, item 4, ¶ 4(f).

<sup>896</sup> Appendix G, item 4, ¶ 11(c).

Default, material breach<sup>897</sup>  
Default, remedies for<sup>898</sup>

## **Delivery**

Delivery/delivery schedule

## **Disadvantaged business enterprises**

DBE policy statement<sup>899</sup>  
DBE requirements<sup>900</sup>

## **Disclosure**

Non-disclosure<sup>901</sup>  
Non-disclosure agreement<sup>902</sup>

## **Discrimination, prohibition**

Discrimination, prohibition of in state contracts<sup>903</sup>  
Non-discrimination requirements<sup>904</sup>  
Prohibition of discrimination in state contracts<sup>905</sup>

## **Dispute resolution**

Attorney's fees<sup>906</sup>

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<sup>897</sup> Appendix G, item 7, art. VIII, ¶ 3.

<sup>898</sup> Appendix G, item 4, ¶ 11(f).

<sup>899</sup> Appendix G, item 8, Exhibit A, at 6.

<sup>900</sup> Appendix G, item 4, ¶ 8(b).

<sup>901</sup> Appendix G, item 4, ¶ 16(b).

<sup>902</sup> Appendix G, item 9.

<sup>903</sup> Appendix G, item 1, § 4.30.

<sup>904</sup> Appendix G, item 4, ¶ 8(a).

<sup>905</sup> Appendix G, item 1, § 3.5.

<sup>906</sup> Appendix G, item 3, ¶ 10.

Dispute resolution<sup>907</sup>  
Dispute resolution, informal meeting<sup>908</sup>  
Dispute resolution, mediation<sup>909</sup>  
Dispute resolution, resort to litigation<sup>910</sup>  
Disputes, claims and resolution<sup>911</sup>  
Forum, choice of  
Injunctive relief<sup>912</sup>  
Limitation of liability  
Litigation expenses<sup>913</sup>

## **Drug-free workplace**

Drug free workplace<sup>914</sup>  
Substance abuse<sup>915</sup>

## **E.**

### **Environmental**

Environmental principles<sup>916</sup>

### **Equipment, current**

Current equipment, description<sup>917</sup>

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<sup>907</sup> Appendix G, item 1, § 4.22 and item 4, ¶ 12.

<sup>908</sup> Appendix G, item 4, ¶ 12(a).

<sup>909</sup> Appendix G, item 4, ¶ 12(b).

<sup>910</sup> Appendix G, item 4, ¶ 12(c).

<sup>911</sup> Appendix G, item 17, exhibit C, ¶ 22.

<sup>912</sup> Landy and Mastrobattista, *supra* note 16, at 225 (including mandatory injunctive relief; provision regarding bond required; and attorney's fees and costs for wrongful injunction).

<sup>913</sup> Appendix G, item 17, exhibit C, ¶ 11.

<sup>914</sup> Appendix G, item 7, art. VI, ¶ 25.

<sup>915</sup> Appendix G, item 17, exhibit C, ¶ 30.

<sup>916</sup> Appendix G, item 4, ¶ 7(i).

Receipt of equipment<sup>918</sup>

## **Errors and omissions**

Errors and omissions<sup>919</sup>

Errors and omissions, liability of supplier<sup>920</sup>

## **Escrow**

In-sourcing, in lieu of a software escrow account<sup>921</sup>

Source code escrow<sup>922</sup>

## **F.**

### **Federal government**

Federal contract clauses<sup>923</sup>

Federal government, no obligation of or by<sup>924</sup>

Federal rights, special, for planning, research, and development projects<sup>925</sup>

### **Federal Transit Administration**

FTA clauses<sup>926</sup>

FTA requirements<sup>927</sup>

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<sup>917</sup> Appendix G, item 8, Exhibit A, at 3.

<sup>918</sup> Appendix G, item 3, ¶ 3.

<sup>919</sup> Appendix G, item 4, Exhibit B, LYNX General Provisions, ¶ 6.02.04.

<sup>920</sup> Appendix G, item 15, § 10.

<sup>921</sup> Appendix G, item 7, art. VI, ¶ 8.

<sup>922</sup> Appendix G, item 4, ¶ 4(g).

<sup>923</sup> Appendix G, item 8, Exhibit A, at 19.

<sup>924</sup> Appendix G, item 1, § 4.25 and item 4, Exhibit B, LYNX General Provisions, ¶ 6.01.19.

<sup>925</sup> Appendix G, item 17, exhibit C, ¶ 27(D).

<sup>926</sup> Appendix G, item 5, ¶ 15 and Exhibit A.

<sup>927</sup> Appendix G, item 5, ¶ 9.

FTA requirements, certification with<sup>928</sup>  
FTA terms, incorporation of (including FTA Circular 4220.1F)<sup>929</sup>

***Force majeure***

*Force majeure*<sup>930</sup>

**Fraud**

Fraud and false or fraudulent statements<sup>931</sup>  
Program fraud and false or fraudulent statements and related actions (31 U.S.C. § 3801)<sup>932</sup>

**Funding**

Funding<sup>933</sup>  
Program funding, continent on<sup>934</sup>

**G.**

**Gift ban**

Gift ban, state of Illinois<sup>935</sup>

**Goals**

Design goals<sup>936</sup>  
Project goals<sup>937</sup>

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<sup>928</sup> Appendix G, item 8, Exhibit A, at 15.

<sup>929</sup> Appendix G, item 1, § 3.7 and item 15, ¶ xvii, at 10.

<sup>930</sup> Appendix G, item 7, art. IX, ¶ 10.

<sup>931</sup> Appendix G, item 1, § 3.4.

<sup>932</sup> Appendix G, item 1, § 4.26 and item 4, Exhibit B, LYNX General Provisions, ¶ 6.01.23.

<sup>933</sup> Appendix G, item 8, Exhibit A, at 5.

<sup>934</sup> Appendix G, item 4, Exhibit B, LYNX General Provisions, ¶ 6.01.26.

<sup>935</sup> Appendix G, item 14, ¶ 4.

<sup>936</sup> Appendix G, item 17, exhibit A, § 4.0.

## **Governing law**

Governing law<sup>938</sup>

## **H.**

### **Hold-harmless**

Hold-harmless<sup>939</sup>

Hold harmless agreement<sup>940</sup>

## **I.**

### **Immigration and Nationality Act**

Immigration and Nationality Act, compliance with<sup>941</sup>

### **Indemnification/Indemnity**

Indemnity and waiver of benefits<sup>942</sup>

Indemnity/indemnification<sup>943</sup>

Indemnification for infringement<sup>944</sup>

Indemnification for personal injury<sup>945</sup>

Indemnification, procedure for<sup>946</sup>

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<sup>937</sup> Appendix G, item 17, exhibit A, § 3.0.

<sup>938</sup> Appendix G, item 3, ¶ 14 and item 7, art. IX, ¶ 7.

<sup>939</sup> Appendix G, item 8, art. IV (miss numbered).

<sup>940</sup> Appendix G, item 1, at 59 and item 17, exhibit C, ¶ 27(E).

<sup>941</sup> Appendix G, item 7, art. VI, ¶ 11.

<sup>942</sup> Appendix G, item 5, ¶ 7.

<sup>943</sup> Appendix G, item 1, § 4.24; item 4, ¶ 15 and Exhibit B, LYNX General Provisions, ¶ 6.01.15; item 7, art. VI, ¶ 21; and item 17, exhibit C, ¶ 4. See Landy and Mastrobattista, *supra* note 16, at 217.

<sup>944</sup> Appendix G, item 4, ¶ 15(b).

<sup>945</sup> Landy and Mastrobattista, *supra* note 16, at 220.

<sup>946</sup> Appendix G, item 4, ¶ 15(c). See Landy and Mastrobattista, *supra* note 16, at 221.



## **Independent contractor**

Independent contractor<sup>947</sup>  
Independent contractor, defined<sup>948</sup>

## **Infrastructure**

Information Technology Infrastructure, current

## **Installation**

Installation, training, and maintenance requirements<sup>949</sup>

## **Insurance**

Insurance<sup>950</sup>  
Insurance, additional insured<sup>951</sup>  
Insurance and bonds<sup>952</sup>  
Insurance and indemnification<sup>953</sup>  
Insurance, certificate of<sup>954</sup>  
Insurance, endorsements<sup>955</sup>  
Insurance, primary<sup>956</sup>  
Insurance requirements<sup>957</sup>

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<sup>947</sup> Appendix G, item 17, exhibit C, ¶ 1.

<sup>948</sup> Appendix G, item 5, ¶ 4 and item 7, art. III, ¶ 3.

<sup>949</sup> Appendix G, item 8, Exhibit A, at 5.

<sup>950</sup> Appendix G, item 4, Exhibit B, LYNX General Provisions, ¶ 6.02.05; item 7, art. VI, ¶ 14; item 15, § 12; and item 17, exhibit C, ¶ 2.

<sup>951</sup> Appendix G, item 7, art. VI, ¶ 15.

<sup>952</sup> Appendix G, item 4, ¶ 7(h) and item 5, ¶ 6.

<sup>953</sup> Appendix G, item 2, ¶ 8.0.

<sup>954</sup> Appendix G, item 7, art. VI, ¶ 18.

<sup>955</sup> Appendix G, item 7, art. VI, ¶ 19.

<sup>956</sup> Appendix G, item 7, art. VI, ¶ 16

<sup>957</sup> Appendix G, item 8, Exhibit A, part F and item 13, SC 4.

Insurance, representations<sup>958</sup>  
Insurance, scope of<sup>959</sup>

### **Integration (entire agreement) clause**

Integration (entire agreement) clause<sup>960</sup>

### **Integration with existing equipment**

Description of current and required capabilities of new system<sup>961</sup>  
Existing processes<sup>962</sup>  
Integration of new system<sup>963</sup>  
Project dependences<sup>964</sup>

**J.**

**K.**

**L.**

### **Labor**

Labor, notice of disputes<sup>965</sup>  
Labor requirements<sup>966</sup>  
Prevailing wage requirement<sup>967</sup>

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<sup>958</sup> Appendix G, item 1, § 3.2

<sup>959</sup> Appendix G, item 7, art. VI, ¶ 17.

<sup>960</sup> Appendix G, item 7, art. IX, ¶ 6 and item 13, SC 7.

<sup>961</sup> Appendix G, item 1, § 2

<sup>962</sup> Appendix G, item 1, § 2

<sup>963</sup> Appendix G, item 1, § 2

<sup>964</sup> Appendix G, item 1, § 2

<sup>965</sup> Appendix G, item 4, Exhibit B, LYNX General Provisions, ¶ 6.02.06.

<sup>966</sup> Appendix G, item 1, at 49.

<sup>967</sup> Appendix G, item 7, art. VI, ¶ 10 and item 17, exhibit C, ¶ 24.

Work hours and safety requirements<sup>968</sup>

## **Laws and regulations**

Applicable laws and regulations, compliance with<sup>969</sup>  
Incorporation of changes in federal laws and regulations<sup>970</sup>  
Laws, ordinances, and/or regulations, effect of<sup>971</sup>

## **Law (governing)**

Law, governing<sup>972</sup>

## **Liability**

Liability, limitation on<sup>973</sup>

## **License**

License, grant of<sup>974</sup>  
License, scope of use  
License upon termination<sup>975</sup>  
Scope of work, software license and service agreement<sup>976</sup>  
Software/database license<sup>977</sup>  
Standard terms and conditions, software license and service agreement<sup>978</sup>

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<sup>968</sup> Appendix G, item 4, Exhibit B, LYNX General Provisions, ¶ 6.04.03.

<sup>969</sup> Appendix G, item 4, ¶ 7(c).

<sup>970</sup> Appendix G, item 1, § 3.8.

<sup>971</sup> Appendix G, item 7, art. VI, ¶ 24.

<sup>972</sup> Appendix G, item 4, ¶ 19(a). *See* Landy and Mastrobattista, *supra* note 16, at 226.

<sup>973</sup> Appendix G, item 4, ¶ 14.

<sup>974</sup> Landy and Mastrobattista, *supra* note 16, at 198 (including exclusive or non-exclusive; effect of contingencies).

<sup>975</sup> Appendix G, item 4, ¶ 4(c).

<sup>976</sup> Appendix G, item 10, exhibit E, at 10.

<sup>977</sup> Appendix G, item 7, art. III, ¶ 7; item 10; and item 19.

<sup>978</sup> Appendix G, item 10 at 1.

## **Lobbying**

Lobbying certification and disclosure statements<sup>979</sup>

## **M.**

### **Maintenance and Support**

Extended maintenance and hosting priced options<sup>980</sup>

Maintenance and support<sup>981</sup>

Service Level Agreement<sup>982</sup>

Service response for errors that are critical, serious, or non-serious;<sup>983</sup>

## **Materials**

Materials and labor, furnishing of<sup>984</sup>

Materials, approval of<sup>985</sup>

Materials, recovered<sup>986</sup>

Material and workmanship<sup>987</sup>

## **N.**

### **Negotiation**

Truth in negotiation<sup>988</sup>

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<sup>979</sup> Appendix G, item 1, § 4.28.

<sup>980</sup> Appendix G, item 3, ¶ 8.

<sup>981</sup> Landy and Mastrobattista, *supra* note 16, at 199 (including identification of items that are “mission-critical” such as safety and security).

<sup>982</sup> The solicitation should address whether a service level agreement will be required.

<sup>983</sup> Landy and Mastrobattista, *supra* note 16, at 200.

<sup>984</sup> Appendix G, item 4, ¶ 7(a) and item 7, art. VI, ¶ 3.

<sup>985</sup> Appendix G, item 4, Exhibit B, LYNX General Provisions, ¶ 6.02.04.

<sup>986</sup> Appendix G, item 4, Exhibit B, LYNX General Provisions, ¶ 6.02.01.

<sup>987</sup> Appendix G, item 4, Exhibit B, LYNX General Provisions, ¶ 6.01.18.

## Notices

Notices<sup>989</sup>

## O.

### Occupational and Safety Requirements

Occupational Safety and Health, requirements<sup>990</sup>

## Ownership

Ownership<sup>991</sup>

## P.

### Patents

Patents, federal rights<sup>992</sup>  
Patent, rights in data<sup>993</sup>  
Royalties and fees<sup>994</sup>

## Payment

Billing, progress<sup>995</sup>  
Invoicing, procedure for<sup>996</sup>  
Mobile payment solution<sup>997</sup>

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<sup>988</sup> Appendix G, item 4, Exhibit B, LYNX General Provisions, ¶ 6.01.27.

<sup>989</sup> Appendix G, item 3, ¶ 9 and item 4, ¶ 18.

<sup>990</sup> Appendix G, item 4, Exhibit B, LYNX General Provisions, ¶ 6.06.10.

<sup>991</sup> Appendix G, item 4, ¶ 17.

<sup>992</sup> Appendix G, item 17, exhibit C, ¶ 26(B).

<sup>993</sup> Appendix G, item 5, at 9.

<sup>994</sup> Appendix G, item 17, exhibit C, ¶ 25.

<sup>995</sup> Appendix G, item 17, exhibit A, § 7.0.

<sup>996</sup> Appendix G, item 4, ¶ 6(c).

Payment<sup>998</sup>  
Payment and compensation, method<sup>999</sup>  
Payment and delivery schedule  
Payment, no retainage<sup>1000</sup>  
Payments, progress, retention of 10% of each<sup>1001</sup>  
Payment, terms of<sup>1002</sup>  
Retainage, withholding 5% in event of default<sup>1003</sup>

## Performance

Non-performance, delay of supplier<sup>1004</sup>  
Performance, period of<sup>1005</sup>  
Performance, time of<sup>1006</sup>  
Work, performance of<sup>1007</sup>

## Personnel

Personnel, key (defined)<sup>1008</sup>  
Staffing<sup>1009</sup>

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<sup>997</sup> Appendix G, item 4, ¶ 4(h).

<sup>998</sup> Appendix G, item 7, art. V, ¶ 1; item 8, art. III (mis-numbered); and item 13, SC 3. The solicitation and the contract should establish the agency's rights and obligations regarding the timeliness of payments and the applicable rate of interest particularly when the rate is negotiable.

<sup>999</sup> Appendix G, item 15, § 3.

<sup>1000</sup> Appendix G, item 17, exhibit C, ¶ 15.

<sup>1001</sup> Appendix G, item 7, art. V, ¶ 2.

<sup>1002</sup> Appendix G, item 1, § 3.1.

<sup>1003</sup> Appendix G, item 4, ¶ 6(g).

<sup>1004</sup> Appendix G, item 15, § 9.

<sup>1005</sup> Appendix G, item 3, ¶ 5 and item 5, ¶ 3.

<sup>1006</sup> Appendix G, item 7, art. 1, ¶ 2 and item 15, § 4.

<sup>1007</sup> Appendix G, item 14, ¶ 3.

<sup>1008</sup> Appendix G, item 7, art. III, ¶ 4.

<sup>1009</sup> Appendix G, item 15, § 5.

## Permits

Permits and approvals<sup>1010</sup>  
Permits and licenses<sup>1011</sup>

## Price

Price, component/labor protection<sup>1012</sup>

## Privacy requirements

Contracts involving federal Privacy Act requirements<sup>1013</sup>

## Procurement

Design-bid-build<sup>1014</sup>  
Design-build<sup>1015</sup>  
Procurement methods<sup>1016</sup>  
Procurement, non-competitive<sup>1017</sup>  
Procurement standards<sup>1018</sup>

## Products

Product restrictions<sup>1019</sup>

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<sup>1010</sup> Appendix G, item 4, ¶ 7(f).

<sup>1011</sup> Appendix G, item 5, ¶ 5.

<sup>1012</sup> Appendix G, item 7, art. VI, ¶ 4.

<sup>1013</sup> Appendix G, item 4, Exhibit B, LYNX General Provisions, ¶ 6.01.08.

<sup>1014</sup> Appendix G, item 16, § 52.3(E).

<sup>1015</sup> Appendix G, item 16, § 52.3(D).

<sup>1016</sup> Appendix G, item 16, § 52.3.

<sup>1017</sup> Appendix G, item 16, § 52.3(F).

<sup>1018</sup> Appendix G, item 16, § 52.2.

<sup>1019</sup> Appendix G, item 15, ¶ a.ii, at 1.

## **Professional responsibility**

Professional responsibility<sup>1020</sup>

## **Professional services agreement**

Professional services agreement<sup>1021</sup>  
Professional services provided<sup>1022</sup>

## **Program manager**

Program manager<sup>1023</sup>

## **Progress**

Progress<sup>1024</sup>

## **Prohibited acts**

Prohibitions (*e.g.*, no unauthorized use; no reverse engineering)<sup>1025</sup>

## **Project**

Project Personnel, identification of, responsibilities of  
Project, scope of<sup>1026</sup>  
TAP Customer Relationship Management (CRM)<sup>1027</sup>  
Work, scope of<sup>1028</sup>

---

<sup>1020</sup> Appendix G, item 7, art. VI, ¶ 23.

<sup>1021</sup> Appendix G, item 8 and item 14.

<sup>1022</sup> Appendix G, item 15, § 1.

<sup>1023</sup> Appendix G, item 3, ¶ 16 and item 15, § 8.

<sup>1024</sup> Appendix G, item 7, art. VI, ¶ 6.

<sup>1025</sup> Landy and Mastrobattista, *supra* note 16, at 209.

<sup>1026</sup> Appendix G, item 1, § 1.

<sup>1027</sup> Appendix G, item 11.

<sup>1028</sup> Appendix G, item 2, ¶ 1.0



## **Project manager**

Project manager<sup>1029</sup>

## **Property**

Property, return of the transit agency's<sup>1030</sup>

## **Proprietary information**

Proprietary information, transit agency's<sup>1031</sup>

## **Public records**

Public records laws, applicability of<sup>1032</sup>  
Public records, requests and indemnification<sup>1033</sup>

## **Publicity**

Publicity releases<sup>1034</sup>

## **Q.**

## **Quality**

Quality<sup>1035</sup>

## **R.**

## **Records**

Access (federal) to records, § 3.6<sup>1036</sup>

---

<sup>1029</sup> Appendix G, item 8, art. I.

<sup>1030</sup> Appendix G, item 7, art. VIII, ¶ 4.

<sup>1031</sup> Appendix G, item 4, ¶ 10.

<sup>1032</sup> Appendix G, item 4, ¶ 9.

<sup>1033</sup> Appendix G, item 4, ¶ 16(c).

<sup>1034</sup> Appendix G, item 4, Exhibit B, LYNX General Provisions, ¶ 6.01.21.

<sup>1035</sup> Appendix G, item 7, art. VI, ¶ 5.

FOIA requirements<sup>1037</sup>  
Record-keeping requirements<sup>1038</sup>  
Records, retention<sup>1039</sup>

## **Regulatory framework**

Regulatory framework<sup>1040</sup>

## **Resolution**

Resolution, authorizing award of contract<sup>1041</sup>

## **Risk of loss**

Risk of loss<sup>1042</sup>

## **S.**

## **Security**

Security of facilities  
Security of software

## **Services**

Services agreement<sup>1043</sup>  
Services, furnishing of<sup>1044</sup>  
Services, implementation and integration<sup>1045</sup>

---

<sup>1036</sup> Appendix G, item 1, § 3.6.

<sup>1037</sup> Appendix G, item 14, ¶ 6(B).

<sup>1038</sup> Appendix G, item 4, Exhibit B, LYNX General Provisions, ¶ 6.04.04.

<sup>1039</sup> Appendix G, item 14, ¶ 6(A); item 15, ¶ xvi, at 4; and item 17, exhibit C, ¶ 16.

<sup>1040</sup> Appendix G, item 16, § 52.1

<sup>1041</sup> Appendix G, item 13.

<sup>1042</sup> Appendix G, item 7, art. VI, ¶ 12

<sup>1043</sup> Appendix G, item 14 (following exhibit 1-A).

<sup>1044</sup> Appendix G, item 4, ¶ 4.

Services, restrictions on<sup>1046</sup>  
Services, right to use<sup>1047</sup>  
Services, scope of<sup>1048</sup>  
Services, scope of work<sup>1049</sup>  
Services to be performed<sup>1050</sup>

## **Severability**

Severability<sup>1051</sup>

## **Sexual harassment**

Sexual harassment, prohibition of

## **Software**

Software, protection or security of  
Upgrades and/or updates, right to<sup>1052</sup>

## **Specifications**

Drawings and specifications<sup>1053</sup>  
Functional specifications  
Specifications, responsibility for  
Technical specifications

## **Standard of Care**

---

<sup>1045</sup> Appendix G, item 7, art. III, ¶ 8.

<sup>1046</sup> Appendix G, item 4, ¶ 4(d).

<sup>1047</sup> Appendix G, item 4, ¶ 4(b).

<sup>1048</sup> Appendix G, item 7, art. IV, ¶ 3.

<sup>1049</sup> Appendix G, item 17, exhibit A, § B.1.

<sup>1050</sup> Appendix G, item 7, art. III, ¶ 1.

<sup>1051</sup> Appendix G, item 7, art. IX, ¶ 5.

<sup>1052</sup> Landy and Mastrobattista, *supra* note 16, at 200.

<sup>1053</sup> Appendix G, item 4, Exhibit B, LYNX General Provisions, ¶ 6.06.17.

Reasonable care and skill required<sup>1054</sup>  
Standard of care, defined<sup>1055</sup>

## **Standards**

Standards, adherence to  
Standards, defined

## **Statute of limitations**

Statute of limitations, application of<sup>1056</sup>

## **Subcontractors**

Subcontractors<sup>1057</sup>  
Subcontractors, copies of billings<sup>1058</sup>  
Subcontractors to be used<sup>1059</sup>

## **Successors and assigns**

Successors and permitted assigns, binding on<sup>1060</sup>

## **Supplier**

Supplier, independence of<sup>1061</sup>

## **T.**

## **Taxes**

---

<sup>1054</sup> Appendix G, item 15, § 11.

<sup>1055</sup> Appendix G, item 4, ¶ 7(b).

<sup>1056</sup> Appendix G, item 15, § 16.

<sup>1057</sup> Appendix G, item 17, exhibit C, ¶ 6.

<sup>1058</sup> Appendix G, item 4, ¶ 6(f).

<sup>1059</sup> Appendix G, item 7, art. III, ¶ 5.

<sup>1060</sup> Appendix G, item 7, art. IX, ¶ 3.

<sup>1061</sup> Appendix G, item 15, § 15.

Taxes and fees, payment of<sup>1062</sup>  
Taxes, payment of<sup>1063</sup>

### **Taxpayer identification number**

Taxpayer identification number<sup>1064</sup>

### **Technical requirements**

Technical requirements<sup>1065</sup>

### **Termination**

Termination<sup>1066</sup>  
Termination for cause<sup>1067</sup>  
Termination, damages<sup>1068</sup>  
Termination, failure to receive a grant<sup>1069</sup>  
Termination for convenience<sup>1070</sup>  
Termination for convenience by transit agency<sup>1071</sup>  
Termination for default<sup>1072</sup>  
Termination on project completion<sup>1073</sup>  
Termination, insufficient funds<sup>1074</sup>

---

<sup>1062</sup> Appendix G, item 4, ¶ 7(d).

<sup>1063</sup> Appendix G, item 7, art. VI, ¶ 13.

<sup>1064</sup> Appendix G, item 7, art. IX, ¶ 2.

<sup>1065</sup> Appendix G, item 1, § 2.

<sup>1066</sup> Appendix G, item 5, ¶ 11.

<sup>1067</sup> Appendix G, item 8, art. VI(A).

<sup>1068</sup> Appendix G, item 4, Exhibit B, LYNX General Provisions, ¶ 6.01.26(c).

<sup>1069</sup> Appendix G, item 4, ¶ 11(e).

<sup>1070</sup> Appendix G, item 1, § 4.20; item 8, art. VI(B); and item 17, exhibit C, ¶ 3(A).

<sup>1071</sup> Appendix G, item 4, ¶ 11(b).

<sup>1072</sup> Appendix G, item 1, § 4.21 and item 4, ¶ 11(a) and item 17, exhibit C, ¶ 3(B).

<sup>1073</sup> Appendix G, item 7, art. VIII, ¶ 1.

<sup>1074</sup> Appendix G, item 4, ¶ 11(d).

Termination, special provisions<sup>1075</sup>

### **Third-party beneficiary**

Third party beneficiary, no<sup>1076</sup>

### **Time of completion**

Completion, time of<sup>1077</sup>

### **Training**

Training

### **U.**

### **Use**

Use<sup>1078</sup>

### **User names and passwords**

User names and passwords<sup>1079</sup>

### **V.**

### **Venue**

Venue<sup>1080</sup>

---

<sup>1075</sup> Appendix G, item 4, Exhibit B, LYNX General Provisions, ¶ 6.05.02.

<sup>1076</sup> Appendix G, item 4, ¶ 19(j).

<sup>1077</sup> Appendix G, item 8, art. V.

<sup>1078</sup> The definition of the term use should clarify what is meant by “internal use;” whether the use is nonexclusive or exclusive; the scope of the use, such as whether there are geographic or other restrictions; and whether the use permits the creation of derivative works. *See* Classen 2d Edition, *supra* note 5, at 25–38.

<sup>1079</sup> Appendix G, item 4, ¶ 4(e).

<sup>1080</sup> Appendix G, item 3, ¶ 15.

## W.

### Waiver

Non-waiver<sup>1081</sup>  
Waiver, jury trial<sup>1082</sup>

### Warranties

Warranties<sup>1083</sup>  
Warranties and/or disclaimers<sup>1084</sup>  
Warranty and Support Agreement<sup>1085</sup>  
Warranties by the contractors<sup>1086</sup>  
Warranty<sup>1087</sup>

### Work

Scope and description<sup>1088</sup>  
Scope, changes in<sup>1089</sup>  
Scope of work<sup>1090</sup>  
Scope of work and technical requirements<sup>1091</sup>  
Suspension of work, alerts caused by Homeland Security<sup>1092</sup>  
Work product, ownership<sup>1093</sup>

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<sup>1081</sup> Appendix G, item 13, SC 8 and item 17, exhibit C, ¶ 32.

<sup>1082</sup> Appendix G, item 4, ¶ 19(c).

<sup>1083</sup> See Landy and Mastrobattista, *supra* note 16, at 206-209.

<sup>1084</sup> Appendix G, item 4, ¶ 13.

<sup>1085</sup> Appendix G, item 20.

<sup>1086</sup> Appendix G, item 2, ¶ 9.0

<sup>1087</sup> Appendix G, item 7, art. VI, ¶ 7.

<sup>1088</sup> Appendix G, item 15, ¶ a.i, at 1.

<sup>1089</sup> Appendix G, item 15, § 14.

<sup>1090</sup> Appendix G, item 5, ¶ 1 and item 8, art. III and item 17, exhibit A, § 5.0.

<sup>1091</sup> Appendix G, item 8, Exhibit A, at 4.

<sup>1092</sup> Appendix G, item 13, SC 9.

Work, suspension of<sup>1094</sup>

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<sup>1093</sup> Appendix G, item 7, art. III, ¶ 6.

<sup>1094</sup> Appendix G, item 4, Exhibit B, LYNX General Provisions, ¶ 6.06.18.



## APPENDIX E

### ESCROW AGREEMENT<sup>1095</sup>

[Note to User: Request a copy of the supplier's escrow agreement as part of supplier's proposal. Be sure that it includes source code and not object code, and is otherwise consistent with this section. NOTE: SUPPLIER MUST PROVIDE AN EXECUTED COPY OF THE ESCROW AGREEMENT PRIOR TO EXECUTION OF THIS CONTRACT.]

Supplier shall maintain copies of all Software source code and related technical and user Documentation, in English, in an escrow account, and shall maintain with escrow agent the executed agreement attached hereto as Exhibit X (Escrow Agreement). (AGENCY NAME/ACRONYM) acknowledges that, prior to the Effective Date of this Contract, Supplier delivered to (AGENCY NAME/ACRONYM) and (AGENCY NAME/ACRONYM) received a copy of the executed Escrow Agreement naming the Commonwealth of Virginia as a third party beneficiary. (AGENCY NAME/ACRONYM) has reviewed Escrow Agreement to ensure that such Escrow Agreement does not impose upon the Commonwealth any requirements other than administrative responsibilities necessary for the operation of the Escrow Agreement. If events give rise to a need for the escrow agent to release escrowed materials to the Commonwealth, the Commonwealth's sole responsibility shall be to request the release of such materials from the escrow agent. Supplier agrees to notify (AGENCY NAME/ACRONYM) in writing not less than thirty (30) calendar days prior to termination or any modification of Escrow Agreement. [Note to User: Review Escrow Agreement for terms and procedures related to termination or modification of the agreement.] Supplier warrants that the information and materials to be kept in escrow in a media safe environment for the benefit of the Commonwealth are specifically identified and listed in Attachment A to the Escrow Agreement and include the most current version used by (AGENCY NAME/ACRONYM) of: i). the source code for the Software and all future release versions, ii). identification of the development/support technology stack, including but not limited to, every software tool, driver, script, app, etc. with versions and details needed to develop, test, support all phases of the SDLC for all tiers of the Software as used in (AGENCY NAME/ACRONYM's) solution or operating environment, iii). all Documentation related thereto as well as all necessary and available information, proprietary information must be in English, iv). technical Documentation must be in English and shall enable (AGENCY

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<sup>1095</sup> Virginia Information Technologies Agency, "Guidance on Source Code Escrow and Escrow Agreements" (undated), [https://www.vita.virginia.gov/uploadedfiles/VITA\\_Main\\_Public/SCM/Templates/guidance%20on%20source%20code%20escrow.pdf](https://www.vita.virginia.gov/uploadedfiles/VITA_Main_Public/SCM/Templates/guidance%20on%20source%20code%20escrow.pdf) (last accessed Feb. 24, 2017). The Virginia Information Technologies Agency (VITA) provides the following escrow agreement on line. VITA recommends that anyone using the agreement remove all Notes to User and customize it with your public body's name or acronym before incorporating [it] in your solicitation/contract document.

NAME/ACRONYM), or an Agent of (AGENCY NAME/ACRONYM) to create, maintain and/or enhance the Software without the aid of Supplier or any other person or reference to any other materials, maintenance tools (test programs and program specifications), or proprietary or third party system utilities (compiler and assembler descriptions); descriptions of the system/program generation; and descriptions of any Supplier tools required to enable (AGENCY NAME/ACRONYM) to continue to use the Software, v). all Documentation must be provided in unprotected MS Word and other commonly used formats that can be updated. Supplier warrants that all items, including future versions, deposited in escrow for (AGENCY NAME/ACRONYM) shall be verified by the Escrow Agent within 30 days after deposit to validate the completeness, accuracy and functionality of the Supplier's escrow deposits. The verification process to be performed by the Escrow Agent for the original deposit and subsequent deposits shall be detailed in the Escrow Agreement and a detailed report of all tests of such verification shall be submitted in writing to (AGENCY NAME/ACRONYM) within 10 business days of completion. To perform such verification, Escrow Agent shall conduct a verification process that includes but is not be limited to: i). File List Test - To ensure the deposited items are catalogued and confirm they are readable and virus free, and if encrypted, that the Escrow Agent has the decryption keys on deposit. ii). Inventory and Analysis Test – To provide a complete audit and inventory of the deposit including analysis of deposited media to verify the presence of build instructions, to identify all of materials necessary to recreate the original development environment and to confirm the presence of all build instructions, file classification tables, database schema and listings. iii). Compile Test – To validate whether the development environment can be recreated from the deposited documentation and files; to identify third-party libraries, to recreate the Supplier's development environment; to compile source files and modules, to recreate executable code and to prepare a complete list of any hardware or software configurations. iv). Binary Comparison Test – To test the functionality of the complied deposit materials by comparing the files built in compile testing to the licensed, executable file running at (AGENCY NAME/ACRONYM's) site. v). Full Usability Test – To confirm the source code placed in escrow will be fully functional in the event of a release and to perform a relevant series of tests to ensure that replicated software runs properly in the required (AGENCY NAME/ACRONYM) environment. vi). Final Operability Test – To perform a final demonstration of the functioning software. vii). Fault Remedy – To collaborate with Supplier on fixing any faults discovered during the testing, to obtain corrected escrow items and to re-perform any verification tests as necessary until all tests are successful, with written detailed reports to (AGENCY NAME/ACRONYM).

Supplier warrants that the Escrow Agreement provides for, among other items, the release of the list of items on Attachment A of the Escrow Agreement upon the happening of certain events, including, but not limited to, Supplier's failure to carry out its support and maintenance obligations imposed by this Contract for a period of sixty (60) days, Supplier's breach or default under this Contract, Supplier's bankruptcy, Supplier's failure to continue to do business in the ordinary course. Supplier agrees to pay all expenses associated with establishing and maintaining the escrow account and the contents mentioned above. Subject to the information and materials listed on Attachment A of the Escrow Agreement being released to the Commonwealth pursuant to the terms of the Escrow Agreement, Supplier hereby grants to the Commonwealth a royalty-

free, perpetual, irrevocable license, that permits disclosure to a third party support-vendor of a complete and accurate copy of then-current source code for the Software licensed hereunder, along with all related documentation. (Note to User: If your public body is not included in the entity listing below as referenced in title 2.2 of the Code of Virginia, replace the above paragraph with the one below.) (AGENCY NAME/ACRONYM) is not an agency, board, commission, or other quasipolitical entity of the Commonwealth of Virginia or other body referenced in Title 2.2 of the Code of Virginia. Subject to the information and materials listed on Attachment A of the Escrow Agreement being released to AGENCY NAME/ACRONYM, Supplier hereby grants AGENCY NAME/ACRONYM a royalty-free, perpetual, irrevocable license, that permits disclosure to a third party support-vendor of a complete and accurate copy of then-current source code for the Software licensed to AGENCY NAME/ACRONYM, along with all related documentation.

## APPENDIX F

### NONDISCLOSURE AND CONFIDENTIALITY AGREEMENT

THIS AGREEMENT, entered into as of this day of August, 2014, by and between the **Greater Cleveland Regional Transit Authority** (hereinafter the “Authority” or “GCRTA”), having an Office located at 1240 W 6th St., Cleveland, Ohio 44113 and (hereinafter “”) whose business address is

WITNESSETH: THAT

WHEREAS, GCRTA and [CONTRACTOR] have entered into an agreement for [CONTRACTOR] to provide to the GCRTA under Contract No. (“Project”); and

WHEREAS, in order to perform this work, [CONTRACTOR] will require access to the contents of GCRTA’s system(s), database(s) and/or applications which may contain personal identification information in order to complete the Project; and

WHEREAS, during the course of the Project, [CONTRACTOR] will have access to information which is confidential and proprietary and which is of a type not available to the general public, the disclosure of which may bear civil fines and penalties; and

WHEREAS, [CONTRACTOR] will take appropriate and necessary steps to protect such confidential and proprietary information.

NOW THEREFORE for good and valuable consideration, the sufficiency of which is acknowledged by the parties hereto and evidenced by their signatures below:

IT IS HEREBY AGREED AS FOLLOWS

1. [CONTRACTOR] and GCRTA each acknowledge that during the course of the Project, [CONTRACTOR] may have access to information which is confidential and proprietary and which is of a type not available to the general public, the disclosure of which may bear civil fines and penalties. [CONTRACTOR] and GCRTA each acknowledge and agree they will take appropriate and necessary steps to protect such confidential and proprietary information.
2. **Confidential and Proprietary Information.** For purposes of this Agreement, “confidential and proprietary information” (hereinafter “Confidential Information”) means the

contents of GCRTA's system(s), database(s), and/or applications which contain personal identification information ("PII"), the disclosure of which may bear civil fines and penalties.

3. **Nondisclosure.** [CONTRACTOR] will be given access to view and edit GCRTA's Confidential Information for the sole purpose of

[CONTRACTOR] is strictly prohibited from removing or transferring Confidential Information outside of GCRTA's database(s) and under no circumstances shall any Confidential Information be removed from or transferred out of GCRTA's database(s). If it is discovered that Confidential Information has been removed or transferred out of GCRTA's database(s), inadvertently or otherwise, [CONTRACTOR] shall immediately notify GCRTA and return or destroy (with documented proof) all such Confidential Information. Any changes or modifications to GCRTA's data must be performed on a clone of GCRTA's actual production data. All Confidential Information shall be kept confidential by [CONTRACTOR], and shall not be disclosed or disseminated, either directly or indirectly, in any manner whatsoever, to a third party without the express written consent of GCRTA. SYNAPTIS agrees to use diligent and exhaustive efforts to protect GCRTA's Confidential Information and such information shall only be disclosed to employees or agents of [CONTRACTOR] on a need to know basis. Each such employee or agent shall also be bound by this Agreement.

[CONTRACTOR] shall be responsible for any damages to the Confidential Information, GCRTA's database(s), data corruption, support issues, security issues, or performance issues arising out of [CONTRACTOR's] performance under this Agreement or its access to GCRTA's database(s). [CONTRACTOR] shall be responsible for any restoration and/or recovery of data files and/or the operating system related to or necessitated by [CONTRACTOR's] performance under this Agreement or its access to GCRTA's database(s).

4. **Ownership, No License or Warranties.** All Confidential Information shall remain the property of GCRTA. The Parties recognize and agree that nothing contained in this Agreement shall be construed as granting to [CONTRACTOR] any rights, by license or otherwise, to any of GCRTA's Confidential Information. ALL CONFIDENTIAL INFORMATION IS PROVIDED "AS IS" WITH ALL ERRORS AND DEFECTS. Nothing in this Agreement shall be construed as a warranty, representation, assurance, guarantee or inducement with respect to the content or accuracy of the Confidential Information, but any and all warranties contained in the Contract shall remain in full force and effect and shall bind [CONTRACTOR] notwithstanding this

sentence. In no event shall the GCRTA be liable for the accuracy or completeness of the Confidential Information.

5. **Professional Liability Insurance.** [CONTRACTOR] shall, by the date upon which this Agreement is made, purchase and maintain professional liability/errors & omissions insurance in the amount of \$2 million per claim. The definition of wrongful acts must be applicable to the work performed hereunder. As this insurance is written on a claims-made basis, the policy must be maintained for a minimum of two years after the term of this agreement has concluded.

6. **Assurance of Safeguards to Protect Security and Integrity of Confidential Information.** Prior to execution of this Agreement by GCRTA, [CONTRACTOR] and any of its subcontractors shall each provide one of the following alternatives:

A. A SOC 2 report issued by a firm qualified by the ISACA (Information Systems Audit and Control Association), relevant to the effectiveness of the design and operation of [CONTRACTOR's] and any of its subcontractors' controls related to security, availability, processing integrity, confidentiality or privacy; or

B. A letter of assurance certifying that [CONTRACTOR] and any of their subcontractors have controls in place that are working effectively to ensure:

- **Security**—the system is protected against unauthorized access (both physical and logical).

- **Availability**—the system is available for operation and use as committed or agreed. Processing integrity—System processing is complete, accurate, timely and authorized.

- **Confidentiality**—Information designated as confidential is protected as committed or agreed.

- **Privacy**—Personal information is collected, used, retained, disclosed and destroyed in conformity with the commitments in the entity's privacy notice and with criteria set forth in Generally Accepted Privacy Principles (GAPP).

[CONTRACTOR] and any of its subcontractors' controls should be suitably designed to meet the criteria. The controls must operate effectively during the term of this agreement.

[CONTRACTOR] and any of its subcontractors must be in compliance with the commitments in its statement of privacy practices at all time.

7. **Export Laws.** [CONTRACTOR] acknowledges that Confidential Information which it accesses may include technical data developed in the United States, and therefore, SYNAPTIS

shall not export or re-export any Confidential Information without full compliance with all applicable export laws.

8. **Remedies.** [CONTRACTOR] shall be liable for any disclosure, data corruption, support issues, security issues or performance issues arising out of its access to GCRTA's database(s) or its Confidential Information. [CONTRACTOR] will, at its sole cost and expense, indemnify, defend, satisfy all judgments and hold harmless GCRTA and its agents, representatives, and employees from and against all claims, actions, judgments, costs, penalties, liabilities, damages, losses and expenses, including but not limited to, attorneys' fees arising out of or resulting from its access to GCRTA's databases and/or Confidential Information.

[CONTRACTOR] will, at its sole cost and expense, indemnify, defend, satisfy all judgments and hold harmless GCRTA and its agents, representatives, and employees from and against all claims, actions, judgments, costs, penalties, liabilities, damages, losses and expenses, including but not limited to, attorneys' fees arising out of or resulting from [CONTRACTOR] or any of its subcontractors' failure to comply with the assurances specified in Section 6 of this Agreement.

Should [CONTRACTOR] or any of its subcontractors violate the terms of this Agreement, it is expressly agreed that GCRTA would suffer irreparable damage. As such, in addition to all other remedies available at law, GCRTA shall be entitled to immediate injunctive relief, which may be granted without the necessity of posting a bond or other surety with the court.

9. **Employee Recruitment.** [CONTRACTOR] and GCRTA each agree that their respective employees are critical to the servicing of their customers. [CONTRACTOR] and GCRTA therefore agree to refrain from engaging or hiring, in any capacity, employees of the other during the term of this Agreement, and for a period of one year following termination thereof. Should any party violate this paragraph, the violating party will pay to the aggrieved party an amount equal to 50% of that employee's annualized compensation

10. **Publicity.** All media releases and public announcements or disclosures by any party relating to this Agreement and that identify another party by name shall be approved by the other party in writing prior to the release thereof. Approval shall be timely and not unreasonably withheld. Notwithstanding the foregoing, if the parties are unable to agree on a mutually acceptable announcement, a party may nevertheless issue a news release if it is advised by counsel that such release is necessary to comply with applicable securities or similar laws.

11. **Severability.** Should any portion of this Agreement be found to be invalid, illegal or unenforceable, then such portion as is reasonably necessary to remove such invalidity, illegality or unenforceability shall be deleted, and the remaining terms hereof shall continue in full force and effect.

12. **Survival.** The provisions of paragraphs 2, 3 and 4 shall survive termination of this Agreement for a period of three years thereafter.

IN WITNESS WHEREOF, SYNAPTIS and GCRTA have executed this Contract as of the date first written above

ATTEST: [CONTRACTOR]

ATTEST: GREATER CLEVELAND REGIONAL  
TRANSIT AUTHORITY



**APPENDIX G**

**INDEX TO AND COMPENDIUM OF TRANSIT AGENCIES' CONTRACTS AND OTHER DOCUMENTS**

**Ann Arbor Area Transportation Authority**

Request for Proposal #2014-15 for Computer Aided Dispatch and Automated Vehicle Location (CAD/AVL) Consultant Item 1

Contract between Ann Arbor Area Transportation Authority (AAATA) and TranSystems, March 1, 2014, in reference to AAATA's Request for Proposal #2014-15 (CAD/AVL) Item 2

**Alameda Contra Costa Transit District**

Notice to Proceed and Contract # 2015-1311 for CAD/AVL and Radio Communication Systems Item 3

**Central Florida Regional Transportation Authority (LYNX)**

Contract for Intelligent Transportation System Technology Solution between Central Florida Regional Transportation Authority and Doublemap, Inc., August 11, 2015 Item 4

**Cobb County Department of Transportation**

Agreement between Cobb County and Clever Devices, Ltd. to provide the Equipment and Installation of Bus Automatic Vehicle Location (AVL) System For Cobb Community Transit Item 5

**Connecticut Department of Transportation**

Information Technology Procurements Contractual Requirements Item 6

**Golden Empire Transit**

Agreement between Golden Empire Transit and Connexionz Limited, January 2, 2013, for Automated Vehicle Location and Passenger Information System Item 7

**Go Transit**

Professional Services Agreement – Automatic Passenger Counters  
between City of Oshkosh and Infodev Ed, Inc., August 5, 2014

Item 8

**Greater Cleveland Regional Transit Authority**

Nondisclosure and Confidentiality Agreement

Item 9

Software License and Service Agreement, April 5, 2016, between  
Greater Cleveland Regional Transit Authority and Passport Parking, Inc.  
for Mobile Ticketing

Item 10

**Los Angeles County Metropolitan Transportation Authority**

TAP Customer Relationship Management (CRM) Project Scope

Item 11

**Metropolitan Atlanta Rapid Transit**

GSA Federal Acquisition Service Information Terminology

Item 12

Schedule Pricelist for SHI International Corporation and Terms and Conditions  
Applicable to Purchase of General Purpose Commercial Information Technology  
Equipment, November 24, 2004 through November 23, 2019

Resolution Authorizing Award of a Contract for the Procurement of  
Software for the Oracle Enterprise Applications Security Management and  
Supplementary Conditions - Renew Maintenance Support for Oracle Database,  
ERP, and ID Management Licenses

Item 13

**Northeast Illinois Regional Commuter Railroad Corporation (Metra)**

Agreement for Professional Services, March 24, 2016, between Northeast  
Illinois Regional Commuter Railroad Corporation (Metra) and Kronos Talen  
Management, LLC

Item 14

**Rockford Mass Transit District**

Agreement for Fixed Route AVL, December 23, 2014, between Rockford  
Mass Transit District and RouteMatch Software, Inc.

Item 15

**San Diego Metropolitan Transit System**

Metropolitan Transit System Policies and Procedures No. 52 for

Item 16

Procurement of Goods and Services, March 17, 2016

Agreement, December 17, 2014, between San Diego Metropolitan Transit System and Steer Davies and Gleave, Inc. for website replacement services Item 17

**Stark Area Regional Transit Authority**

Request for Proposals, 2010-09, Communication System Engineering Project Item 18

Software License Agreement, undated, between Stark Area Regional Transit Authority and Avail Technologies, Inc. Item 19

Warranty and Support Agreement, undated, between Stark Area Regional Transit Authority and Avail Technologies, Inc. Item 20

**Tri-County Metropolitan Transportation District of Oregon (TRIMET)**

Contracting Rules, issued February 20, 2008, amended August 9, 2010, and October 22, 2014 Item 21