

You may also request a copy from Mr. David W. Robinson. See the section entitled **FOR FURTHER INFORMATION CONTACT** for the complete address.

Issued in Washington, DC, on June 16, 2004.

**Susan J.M. Cabler,**

*Acting Manager, Aircraft Engineering Division, Aircraft Certification Service.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### Proposed Technical Standard Order (TSO)—C159, Avionics Supporting Next Generation Satellite Systems (NGSS)

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of availability and requests for public comment.

**SUMMARY:** This notice announces the availability of and requests comments on a proposed Technical Standard Order (TSO) C-159, Avionics Supporting Next Generation Satellite Systems (NGSS). This proposed TSO tells persons seeking a TSO authorization or letter of design approval what minimum performance standards (MPS) their Next Generation Satellite Systems (NGSS) must meet to be identified with the applicable TSO marking.

**DATES:** Comments must be received on or before July 23, 2004.

**ADDRESSES:** Send all comments on the proposed technical standard order to: Federal Aviation Administration (FAA), Aircraft Certification Service, Aircraft Engineering Division, Avionic Systems Branch, AIR-130, 800 Independence Avenue, SW, Washington, DC 20591. ATTN: Ms. Dara Gibson. Or deliver comments to: Federal Aviation Administration, Room 815, 800 Independence Avenue, SW, Washington, DC 20591.

**FOR FURTHER INFORMATION CONTACT:** Ms. Dara Gibson, AIR-130, Room 815 Federal Aviation Administration, Aircraft Certification Service, Aircraft Engineering Division, 800 Independence Avenue, SW, Washington, DC 20591. Telephone (202) 385-4632, FAX: (202) 385-4651. Or, via e-mail at: [dara.gibson@faa.gov](mailto:dara.gibson@faa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Comments Invited

Interested persons are invited to comment on the proposed TSO listed in

this notice by submitting such written data, views, or arguments as they desire to the above specified address.

Comments received on the proposed TSO may be examined, before and after the comment closing date, in Room 815, FAA Headquarters Building, 800 Independence Avenue, SW, Washington, DC 20591, weekdays except Federal holidays, between 8:30 a.m. and 4:30 p.m. All communications received on or before the closing date will be considered by the Director of the Aircraft Certification Service before issuing the final TSO.

#### Background

This proposed TSO applies to avionics supporting Next Generation Satellite Systems (NGSS) that provide Aeronautical Mobile Satellite (R) Services. Note that the capability of the NGSS includes the support of both data and voice communications between aircraft and ground-based users. To accomplish this task, the MPS contained in the proposed TSO-C159 will assist manufacturers of NGSS equipment in their compliance with the applicable requirements of RTCA Document Number (RTCA/DO) 262, Minimum Operational Performance Standards (MOPS) for Avionics Supporting Next Generation Satellite Systems, dated December 14, 2000.

#### How To Obtain Copies

You may get a copy of the proposed TSO from the Internet at: <http://av-info.faa.gov/tso/Tsopro/Proposed.htm>. See section entitled **FOR FURTHER INFORMATION CONTACT** for the complete address if requesting a copy by mail. You may inspect the RTCA document at the FAA office location listed under **ADDRESSES**. Note however, RTCA documents are copyrighted and may not be reproduced without the written consent of RTCA, Inc. You may purchase copies of RTCA, Inc. documents from: RTCA, Inc., 1828 L Street, NW., Suite 815, Washington, DC 20036, or directly from their Web site: <http://www.rtca.org/>.

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## DEPARTMENT OF TRANSPORTATION

### Federal Transit Administration

#### Cooperative Procurement Pilot Program

**AGENCY:** Federal Transit Administration, DOT.

**ACTION:** Notice; request for proposals.

**SUMMARY:** This notice announces the establishment of a new Cooperative Procurement Pilot Program (CPPP) and solicits proposals for consideration. Section 166 of the Transportation, Treasury, and Independent Agencies Appropriations Act, 2004 directs the Federal Transit Administration (FTA) to establish a pilot program to determine the benefits of encouraging cooperative procurement of major capital equipment. As specified in the Appropriations Act, the program shall consist of three pilot projects. Under the CPPP, competitively selected grantees, consortiums of grantees, or members of the private sector acting as agents of grantees will develop cooperative specifications and conduct joint procurements. For this program, Congress has raised the Federal share to be provided from 80 percent to 90 percent.

**DATES:** Proposals (2 copies) and/or comments must be received by August 23, 2004.

**ADDRESSES:** Proposals and/or comments should be submitted to Rita Daguillard, 400 Seventh Street, SW., Suite 9401, Washington, DC 20590 or [Rita.Daguillard@fta.dot.gov](mailto:Rita.Daguillard@fta.dot.gov) and shall reference CPPP.

**FOR FURTHER INFORMATION CONTACT:** Rita Daguillard, Office of Research, Demonstration, and Innovation, Federal Transit Administration, (202) 366-4052, or e-mail: [Rita.Daguillard@fta.dot.gov](mailto:Rita.Daguillard@fta.dot.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

##### *The Federal Transit Program*

The Federal Transit Administration provides grants to State and local government agencies to support public transportation in communities across America. A major portion of these funds is used to purchase major capital equipment (e.g., buses, vans, railcars) used in providing public transit service. FTA's annual budget exceeds \$7 billion, of which more than \$3 billion is distributed by formula to more than 1,000 grantees nationwide. On average, FTA funds more than half of the bus purchases in any given year in the United States.

The bus industry and FTA have promoted standard contract terms and conditions to try to reduce the number of individualized bus orders. Voluntary standard technical specifications and warranties have been developed and promoted by FTA and the American Public Transportation Association. To date, none of these efforts has reduced the use of individualized designs and specifications. This phenomenon also occurs, perhaps less visibly, in the smaller vehicle groups (vans) and rail vehicles as well. The result is higher prices for vehicles. FTA believes that, in addition to cost savings, cooperative procurements could ease the burden on individual transit agencies and their specification writers, manufacturers, and suppliers, and promote healthy, competitive, and predictable transit-related capital equipment markets. The program may also serve as an opportunity to improve the existing standard bus procurement guidelines.

This document lays out the proposed demonstration elements, as specified in FTA's 2004 Appropriations Act (Pub. L. 108-199), the benefits of the program, the application process, the evaluation criteria, and the technical assistance available. In addition, this notice briefly describes the FTA report to Congress mandated for this demonstration.

#### *The Cooperative Procurement*

Section 166 of Pub. L. 108-199 directs FTA to conduct a Cooperative Procurement Pilot Program. The legislation contains specific language concerning the purpose of the pilot program, eligible expenses, maximum Federal share, outreach, and reporting. A summary of the section follows.

Section 166 calls for the Secretary of Transportation to conduct a pilot of three cooperative procurements of major capital equipment under sections 5307 (Urban Formula grants), 5309 (Discretionary Capital grants), and 5311 (Rural Formula grants) of FTA's authorizing legislation. It authorizes a 90 percent Federal share for grants to purchase major capital equipment under this program, compared to the 80 percent otherwise authorized in sections 5307, 5309 and 5311. Title 49 of the United States Code, chapter 53, authorizes FTA to provide grants to governmental agencies to promote the provision of transit services.

The full text of section 166 is as follows:

Sec. 166. (a) In General—The Secretary shall establish a pilot program to determine the benefits of encouraging cooperative procurement of major capital equipment under sections 5307, 5309, and 5311. The program shall consist of three pilot projects.

Cooperative procurements in these projects may be carried out by grantees, consortiums of grantees, or members of the private sector acting as agents of grantees.

(b) Federal Share—Notwithstanding any other provision of law, the Federal share for a grant under this pilot program shall be 90 percent of the net project cost.

(c) Permissible Activities—

(1) Developing Specifications—Cooperative specifications may be developed either by the grantees or their agents.

(2) Requests for Proposals—To the extent permissible under State and local law, cooperative procurements under this section may be carried out, either by the grantees or their agents, by issuing one request for proposal for each cooperative procurement, covering all agencies that are participating in the procurement.

(3) Best and Final Offers—The cost of evaluating best and final offers either by the grantees or their agents, is an eligible expense under this program.

(d) Technology—To the extent feasible, cooperative procurements under this section shall maximize use of Internet-based software technology designed specifically for transit buses and other major capital equipment to develop specifications; aggregate equipment requirements with other transit agencies; generate cooperative request for proposal packages; create cooperative specifications; and automate the request for approved equals process.

(e) Eligible Expenses—The cost of the permissible activities under (c) and procurement under (d) are eligible expenses under the pilot program.

(f) Proportionate Contributions—Cooperating agencies may contribute proportionately to the non-Federal share of any of the eligible expenses under (e).

(g) Outreach—The Secretary shall conduct outreach on cooperative procurement. Under this program the Secretary shall: (1) Offer technical assistance to transit agencies to facilitate the use of cooperative procurement of major capital equipment; and (2) conduct seminars and conferences for grantees, nationwide, on the concept of cooperative procurement of major capital equipment.

(h) Report—Not later than 30 days after delivery of the base order under each of the pilot projects, the Secretary shall submit to the House and Senate Committees on Appropriations a report on the results of that pilot project. Each report shall evaluate any savings realized through the cooperative procurement and the benefits of incorporating cooperative procurement, as shown by that project, into the mass transit program as a whole.

#### **Industry Consultation**

FTA will hold a pre-proposal meeting with interested parties at FTA headquarters in Washington, DC, on a date to be announced. The purpose of the meeting will be to answer questions related to the CPPP. To receive electronic notice of the time and date of this meeting, as well as any updates FTA issues throughout the program, send an e-mail with your name, contact

telephone number, and the e-mail address where you wish to receive this information to [FTACPPP@fta.dot.gov](mailto:FTACPPP@fta.dot.gov). Following selection of the pilot projects, FTA will continue to consult with industry representatives throughout this pilot program.

#### **Goals**

FTA's goals for the CPPP are to develop, refine, and prove innovative procurement practices that provide significant benefits to the public transit industry, including cost savings compared to a standard procurement (both in initial procurement costs and operational costs over the life of the equipment); improved efficiency of the procurement process; procurement methods that are easily implemented; decreased managerial burden on the organizations involved; and efficient use of Internet-based software technology in developing specifications, aggregating equipment requirements with other transit agencies, and generating cooperative requests for proposal packages.

#### **Initial Issues**

By introducing a number of innovative procurement practices, this program could identify and provide significant advantages to the transit industry. We also recognize that the failure to consider the full effects of any particular project could prove disruptive to the transit industry. The major issues related to competition are captured in this section and proposers are asked to address these concerns in their proposals.

- It is important that this program not artificially skew the bus, supplier, or other major capital equipment markets. Sound manufacturing and supply markets are vital to maintaining the availability of high quality, reasonably priced buses and other major capital equipment. In this program, FTA hopes to secure the best available pricing and quality for grantees' major capital equipment purchases and achieve the best value for taxpayer dollars.

- The pilot projects ought to be narrowly tailored (*e.g.*, one project may involve procurement of 40', 102"-wide, low-floor, clean diesel buses) to enhance the program's viability and our ability to obtain realistic comparisons of the procurement methods employed.

- Because procurements of buses and other rolling stock often extend to five years of requirements, many interested transit agencies may be obligated under the terms of existing multi-year contracts. A transit agency obligated under a current contract may wish to be involved in a pilot project's out-years.

For example, a transit agency obligated to buy buses under a current contract for two more years may wish to join the project for purchases effective in year three (assuming a five-year contract duration under a project). If a transit agency holds an existing option or other right to purchase buses in the future, participation in the CPPP might provide better pricing that would warrant a decision not to exercise the option. A proposal including participants facing this situation should explain how it will address this issue, *e.g.*, forego or assign the option to other non-participants.

- Similarly, current practice allows transit agencies to assign rights to purchase buses to other transit agencies not parties to the original contract, a practice known in the industry as “piggybacking.” This practice may be inconsistent with the concept of joint procurement, a potential threat to the market, or otherwise inappropriate in this program. Proposals should address this issue in terms of the intent to allow or not allow assignments.

- One joint procurement model involves designating a lead transit agency to act as the “contracting officer” for all project participants, with other participants limited to the role of “authorized purchaser” without authority to change, curtail, or extend the single contract. Another model could have all participants in a project cooperate in issuing specifications but independently contract with the supplier(s) selected according to each transit agency’s independent analysis of the suppliers’ proposals. CPPP proposals should explain how this, or other methods they propose to use, would serve the program’s goals and the intent of the individual project.

- Bonding and payment terms, as well as overall risk management and mitigation, are concerns for both transit agencies and suppliers. This program offers an opportunity to foster innovative approaches to these issues that fairly and economically allocate risks.

- The voluntary industry bus specification (the Standard Bus Procurement Guidelines) funded by FTA and issued by the American Public Transportation Association may serve as a baseline for one or more project specifications.

#### Submission of Proposals

FTA solicits proposals for three pilot CPPP projects. Proposals should present an overview of the proposed project, a preliminary list of the participants, the objectives of the procurement, technological aspects of the proposed project, anticipated costs (not including

the purchase price of the equipment to be procured), and a description of how the project meets the selection criteria below and approaches the issues described above. Not all project participants need be identified at the time of the proposal; they may be added to the project once the selection is made.

#### Selection Criteria

In selecting the pilot CPPP projects, FTA will give preference to proposals aimed primarily at procurements of rolling stock, but will consider cooperative procurement proposals of other major capital equipment as well. FTA’s selection will be based on a determination of how to best test different methods of joint procurement, so that FTA can compare and contrast those methods and report the results to Congress and the industry as a guide for future procurement actions. FTA will select the three pilot projects after consideration of:

- *Sound business planning.* Proposals should demonstrate a clear, concise procurement plan, ordering procedures, financial and contractual aspects of their approach, and contract administration techniques.

- *Identification, mitigation, management, and sharing of risk.* This includes approaches to bonding, payment terms, warranties, and other elements of risk that affect pricing.

- *Amount and likelihood of economic benefits.* Proposals should present, to the extent possible, projected costs savings to be garnered through administrative efficiencies, as well as potential savings predicated on volume buying.

- *Administrative efficiency.* This includes streamlining efforts that assist buyers and sellers alike.

- *Innovative techniques.* This includes the use of technology to promote efficiency and/or reduce costs for buyers and sellers, novel approaches to financing, maintenance, parts supplies, or other aspects of total costs of ownership.

- *Approach to the initial issues.* Proposals should explain how they will approach FTA’s systemic concerns explained above.

- *Technical capacity.* This refers to the capacity of the proposers to undertake and manage a joint procurement of this nature.

#### Evaluation Process

FTA staff will evaluate all proposals based on the selection criteria listed above. We may engage in discussions with individual proposers to further define the pilot projects, but reserve the

right to select one or more pilot projects based on the original submissions and without discussions. FTA expects to select the three pilot CPPP projects within 90 days of the deadline for submission of proposals provided in this notice.

#### Program Evaluation and Reporting

Following the award of the procurement contract(s) in each pilot project, FTA will evaluate the procurement process used and the results achieved in each project, and report the findings to Congress. FTA’s evaluation will be based on the cost savings compared to a standard procurement; the improvement in the efficiency of the procurement process; the ease of implementing the procurement methods; the decrease in managerial burden on the organizations involved; and the use of Internet-based software technology in developing specifications, aggregating equipment requirements with other transit agencies, and generating cooperative requests for proposal packages. FTA will use the results of this evaluation to formulate guidance for grantees on the use of cooperative procurement methods. Participating entities will be required to cooperate in the information gathering, reporting, and outreach processes.

Issued on: June 18, 2004.

**Jennifer L. Dorn,**

Administrator.

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Ex Parte No. 290 (Sub No. 5) (2004–3)]

#### Quarterly Rail Cost Adjustment Factor

**AGENCY:** Surface Transportation Board.

**ACTION:** Approval of rail cost adjustment factor.

**SUMMARY:** The Board has approved the third quarter 2004 rail cost adjustment factor (RCAF) and cost index filed by the Association of American Railroads. The third quarter 2004 RCAF (Unadjusted) is 1.071. The third quarter 2004 RCAF (Adjusted) is 0.534. The third quarter 2004 RCAF–5 is 0.509.

**EFFECTIVE DATE:** July 1, 2004.

**FOR FURTHER INFORMATION CONTACT:** Mac Frampton, (202) 565–1541. Federal Information Relay Service (FIRS) for the hearing impaired: 1–800–877–8339.