

**DETERMINATION AND FINDINGS**  
**FOR A**  
**SOLE SOURCE PROCUREMENT**

**Contract No.:**

**Caption:**                                   **Para-transit Vehicles for Student Transportation**

**Proposed Contractor:**                Washington Metropolitan Transit Authority (WMATA)

**Program Agency:**                   **Office of the State Superintendent of Education**  
  Division of Transportation (DOT)

**FINDINGS**

**1. Authorization:**

DC Official Code § 2-303.12 and 27 DCMR 1710.2.

**2. Minimum Need:**

The Office of the State Superintendent-of Education-Division of Transportation (OSSE-DOT) has an immediate requirement for a Contractor to provide para-transit vehicles for student transportation.

OSSE, as the District's state education agency is mandated under a local statute to provide transportation to students with disabilities from DCPS and public charter schools when required as a related service by the student's Individualized Education Plan (IEP) consistent with the Individuals with Disabilities Act, as amended (IDEA) (See, D.C. Official Code §38-2907; §38-2602.01 and §38-2602.) DOT regulates the transportation maintenance activities and safety for the entire school bus fleet. DOT's responsibility is to ensure that there is an ample supply of vehicles with lifts within the fleet in order to accommodate the children with physical handicap.

**3. Estimated Reasonable Price:**

The estimated fair and reasonable price is \$25,000.00.

**4. Facts Which Justify Emergency Procurement:**

A. The District of Columbia is required under IDEA, as enforced under the specific terms of several Court Order in the class action lawsuit *Petties, et*

al, C.A. 95-0148, subsequent agreement dated November 14, 1997 and DOT Policy Directive 530.3 dated August 21, 1997, to provide "Safe and appropriate round trip transportation ("special education transportation") at no cost, for all DOT students receiving special education and/or related services, whose individual needs require transportation to and from programs and / or related service sites by means of other than public transportation or on foot". These services must be provided, uninterrupted, throughout the school year and for summer school as identified in the child's IEP for an Extended School Year (ESY).

DOT does not have a sufficient number of vehicles with lifts within the fleet to accommodate the children with physical handicap. Therefore, DOT's failure to provide adequate transportation will result in DOT's inability to provide transportation to qualified District students with disabilities in direct violation of the federal IDEA statute as well as several Court Orders in *Petties*. Specifically, it will jeopardize the transition of control over DOT back to the District from a court-appointed Transportation Administrator. Such failure would constitute a breach under the Court's transition order in *Petties* (dated May 5, 2010) and therefore provide grounds for the TA to take back control under the terms of the order. In addition, the health and welfare of the students needing transportation would be jeopardized because they would be unable to attend school and not receive all the benefits of being at school.

- B. In addition, the U.S. Department of Education conditions its IDEA grant funding to the District for its failure to comply with IDEA and has withheld federal funds pending the District's ability to demonstrate compliance. Further federal IDEA funding would be at risk if DOT fails to transport qualified students for lack of adequate vehicles.

**5. Certification by Agency Head:**

I hereby certify that the above findings are correct and complete.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Hosanna Mahaley  
State Superintendent of Education  
Office of the State Superintendent of Education

**6. Certification by Contracting Officer:**

I have reviewed the above findings and certify that they are sufficient to justify the use of the sole source method of procurement under the cited authority. I certify that the notice of intent to award a sole source contract was published in accordance with 27 DCMR 1304 and that [no response was received] [the response received was rejected because \_\_\_\_\_]. I recommend that the Chief Procurement Officer approve the use of the sole source procurement method for this proposed contract.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Alvin N. Stith  
Agency Contracting Officer

**DETERMINATION**

Based on the above findings and in accordance with the cited authority, I hereby determine that it is not feasible or practical to invoke the competitive solicitation process under either Section 402 or 403 of the District of Columbia Procurement Practices Reform Act of 2010 (D.C. Law 18-371; D.C. Official Code § 2-354.02 or 2-354.03). Accordingly, I determine that the District is justified in using the sole source method of procurement.

\_\_\_\_\_  
Date

\_\_\_\_\_  
James D. Staton, Jr.  
Chief Procurement Officer