

ATTACHMENT E

SYSTEM SAFETY AND SECURITY

E.1 GENERAL

- A. In performing the Contract Services, the Contractor shall at all times conduct train operations and maintenance services in a safe manner. The safety of the Contractor's employees, Subcontractors' employees, VRE riders, VRE staff, and the communities within and adjacent to the VRE service territory shall be the focus of safety without exception.
- B. The Contractor shall, at its own expense, promptly take all precautions which are reasonable or necessary to safeguard against risks and shall regularly conduct safety and security inspections of VRE's rolling stock, facilities, and equipment.
- C. The VRE System Safety Program Plan (SSPP) provided in **Appendix No. 8** shall be the guiding document for the safe execution of the Contract Services. The Contractor shall comply with all aspects of the VRE SSPP.
- D. VRE retains the right to continuously monitor the Contract Services performed by the Contractor to ensure full compliance with all applicable regulatory requirements as well as the VRE SSPP.

E.2 SYSTEM SAFETY PROGRAM PLAN (SSPP)

- A. The Contractor shall support the ongoing development of the VRE SSPP to ensure adherence with the appropriate regulations, standards, and guidelines established by the FRA (under 49 CFR Part 270), FTA, and other federal agencies.
- B. The SSPP shall meet all applicable Federal and other legal requirements and regulations. While VRE is responsible for the development of the SSPP document, which summarizes the program, the Contractor is responsible for the development and implementation of all associated programs and policies related to the SSPP.
- C. Within ninety (90) calendar days of the NTP, the Contractor shall deliver to VRE for review and approval, all programs and policies proposed to implement the requirements of the VRE SSPP.
- D. The Contractor shall also provide recommended updates to the SSPP annually and shall submit the updates to VRE for approval by March 1st of each calendar year.
- E. The Contractor shall submit to any audits conducted by VRE or its consultants or any Federal or State regulatory agency and shall implement recommended corrective actions as directed by VRE. Corrective actions shall also be audited by VRE to ensure implementation. Document requests initiated by VRE must be satisfied within the time frame specified by the audit team or regulator.

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- F. The Contractor shall have policy or procedural documents that address each area identified below. These topics may be addressed through a standalone document or an individual component of a larger document.
1. Organizational structure.
 2. Inventory of VRE assets (rolling stock, facilities, and equipment).
 3. Rules/procedures review.
 4. Training.
 5. Emergency planning/response.
 6. Workplace safety programs.
 7. Passenger and public safety programs.
 8. Rail corridor operations safety.
 9. Hazardous materials program.
 10. Hazard management.
 11. Accident/incident reporting and investigation.
 12. Safety data/acquisition and analysis.
 13. Loss prevention and control.
 14. System change management.
 15. Configuration management.
- G. The Contractor shall carry out and track annual audits to ensure compliance with all aspects of the VRE SSPP. The results of these audits will also be used as input for the annual revision of the SSPP.
- H. VRE's CEO, Director of Rail Operations, Director of Mechanical Operations, System Safety and Security Manager, or such persons as authorized by VRE, may audit the performance of the Contractor at any time.
- I. In addition to annual updates, VRE requires that the Contractor identify changes that require modification of the SSPP on an ongoing basis. The Contractor shall submit these changes to VRE for approval within forty-five (45) calendar days of the date of the change.
- J. VRE may modify the SSPP due to internal audit report results, on-site reviews and investigations, changing trends in accident/incident or security data, or other reasons that may come to the attention of VRE on an as-needed basis. The Contractor is responsible for implementing the changes adopted by VRE.
- K. To implement the requirements of the SSPP, the Contractor shall establish appropriate policies and procedures, lines of authority, levels of responsibility and accountability, and methods of documentation. This documentation is subject to review and approval by VRE.

- L. The Contractor shall cooperate with any audit of the SSPP conducted by VRE or a third party acting on behalf of VRE.
- M. The Contractor's Key Personnel shall attend meetings as directed by VRE, with VRE staff and other appropriate third parties, to discuss safety-related incidents and concerns, and the Contractor's compliance with the SSPP.
- N. If the Contractor becomes aware of an unsafe, non-secure, or potentially unsafe or non-secure condition related to the Contract Services, the Contractor shall inform VRE immediately. A hazardous condition that needs immediate mitigation to prevent damage or loss of VRE assets or injury to people, shall be corrected immediately to the satisfaction of VRE. All hazardous conditions shall be documented and submitted to VRE within one (1) calendar day of discovery, with mitigating/corrective actions noted. Ongoing and regular reporting of the status of corrective actions, including notifications that any identified hazards have been fully mitigated/corrected, must be submitted to VRE for review.
- O. The SSPP must address the hazard management process to include hazard identification, hazard categorizations (hazard severity/probability), hazard investigation, and hazard resolution. This is achieved through the Risk-Based Hazard Management (RBHM) Program. The Contractor shall be responsible for implementing the program and completing operational tasks associated with the risk mitigation process in accordance with the terms outlined in 49 CFR Part 270.103 (p - q).

E.3 SECURITY PLAN

- A. The Contractor shall provide to VRE for review and approval a Security Plan within ninety (90) calendar days of the NTP.
- B. The Security Plan shall provide an overview of security measures and include references to applicable policies and procedures related to security.
- C. The Security Plan shall address the Contractor's role in protecting security sensitive information, supplying information for reportable events, and administering a Security Training Program (see 49 CFR Part 1520, 1570, and 1582).
- D. The Security Plan shall also include a discussion of Information Technology systems and protocols for network and cybersecurity.
- E. The Contractor shall provide recommended updates to the Security Plan annually and shall submit the updates to VRE for approval by March 1st of each calendar year.
- F. The Security Plan shall, at a minimum, address the following areas:
 - 1. Organizational structure.
 - 2. Security goals and objectives.
 - 3. Operating environment.
 - 4. Identification of vulnerabilities and strategies for management and resolution.

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- 5. Management plan.
- G. The Security Plan shall be formatted according to VRE specifications as discussed during the plan development process.

E.4 PASSENGER TRAIN EMERGENCY PREPAREDNESS PLAN (PTEPP)

- A. The Contractor shall develop a PTEPP as required by the FRA, refer to 49 CFR 239.
- B. The Contractor shall provide to VRE for review and approval the proposed PTEPP within ninety (90) calendar days of the NTP.
- C. Following VRE's approval of the PTEPP, the plan shall be submitted to the FRA for approval. Any changes required by the FRA shall be immediately addressed by the Contractor.
- D. Subsequent amendments to the PTEPP shall be filed with the FRA not less than sixty (60) calendar days prior to the proposed effective date of the amendment.
- E. The Contractor shall cooperate and fully participate in any scheduled full scale emergency drills (tabletop and field exercises) at times to be determined by VRE. The Contractor shall provide all personnel required to fully simulate daily operations.

E.5 EMERGENCY RESPONSE PLAN

- A. Within ninety (90) calendar days of the NTP, the Contractor shall deliver to VRE for review and approval an Emergency Response Plan identifying the Contractor's emergency response procedures and programs.
- B. The Contractor shall also provide recommended updates to the Emergency Response Plan annually and shall submit the updates to VRE for approval by March 1st of each calendar year.

E.6 CONTINGENCY PLAN

- A. Within ninety (90) calendar days of the NTP, the Contractor shall deliver to VRE for review and approval (through briefings or other appropriate means) a Contingency Plan describing in detail measures to be taken by the Contractor to assure continued and uninterrupted performance of the Contract Services including, but not limited to, a strike or work stoppage engaged in by the employees of the Contractor or its Subcontractors.
- B. The Contractor shall update the Contingency Plan annually, and submit the plan to VRE for approval, no later than March 1st of each calendar year.
- C. Consistent with the Federal Emergency Management Agency (FEMA) guidelines, the Contractor shall incorporate in the Contingency Plan a Continuity of Operations Plan (COOP).

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E.7 VIOLATIONS

- A. The Contractor shall be responsible for the discovery, determination and correction of any and all violations of the SSPP, Security Plan, Emergency Response Plan, PTEPP or any other safety and security related plans and policies related to the Contract Services.
- B. The Contractor shall notify VRE of such violations immediately and shall consult with VRE on implementing any corrective action plans. The Contractor shall however proceed immediately to take any corrective steps that are required to prevent such a violation from being repeated and to prevent any injury, damage or loss of life.
- C. VRE shall be consulted at all stages of a violation – from identification to analysis - and management of a given hazardous condition as well as resolution and ongoing monitoring.

E.8 EMPLOYEE NON-COMPLIANCE

The failure of any of the Contractor's personnel to comply with the System Safety Program Plan or Security Plan, or to otherwise comply with applicable safety requirements, shall be considered a violation pursuant to the Contract. As such, VRE reserves the right to bar any employee of the Contractor who fails to comply with the stated requirements.

E.9 DRUG AND ALCOHOL-FREE WORKPLACE

- A. VRE is a drug-free workplace. All Contractor personnel and Subcontractors must be free of the effects of illegal drugs, alcohol, controlled substances or other prohibited substances when they are on VRE property or performing Contract Services.
- B. The Contractor shall maintain a drug-free workplace and have an ongoing drug-free awareness program.
- C. Within ninety (90) calendar days of the NTP, the Contractor shall develop and provide to VRE for approval a written drug-free workplace policy, per 49 CFR Part 32 and 41 USC Section 701, that notifies employees of the substance abuse policy, maintains an ongoing drug-free workplace, and establishes an employee education program.
- D. In addition to the policy, the Contractor shall also identify guidelines for drug and alcohol testing. The Contractor shall establish appropriate drug and alcohol testing programs for all Contractor personnel in full compliance with the most stringent interpretation of applicable Federal regulations governing the control of drug use and alcohol abuse in railroad and/or transit operations.
- E. The Contractor shall update the drug-free workplace policy annually, and submit the policy to VRE for approval, no later than March 1st of each calendar year.

- F. All parties are prohibited from using, possessing, selling or distributing any drugs, alcohol, controlled substances or other prohibited substances when they are on VRE property or performing Contract Services.
- G. The Contractor shall advise its employees of this requirement and ensure that employees meet this “fitness for duty” standard.
- H. The Contractor shall remove violators of this policy immediately from VRE property and such employees shall be held out of performing Contract Services. The Contractor shall immediately assign the disciplined employee’s job responsibilities to another qualified employee and shall inform VRE within twenty-four (24) hours of the suspected drug and alcohol abuse in the workplace.
- I. The Contractor shall furnish VRE with a written report of any policy violations, within five (5) calendar days of the violation.
- J. The Contractor shall have a return-to-work program for employees that test positive for drug and alcohol use. For employees who are returning to work following the completion of a return-to-work program, the Contractor shall medically certify that the employee is fit for duty. The Contractor shall inform VRE of such certifications and the return to work of such employees and shall maintain and make available such certifications for VRE’s review.
- K. Following a repeat positive drug and alcohol test, VRE reserves the right to bar such Contractor employees from providing Contract Services.
- L. The Contractor hereby accepts all liability arising from violation of this policy by its employees.

E.9.1 DRUG AND ALCOHOL TESTING REQUIREMENTS

- A. The Contractor shall establish appropriate drug and alcohol testing programs for all employees providing Contract Services. These programs must be in full compliance with applicable regulations set forth by the FRA in 49 CFR 219 (Control of Alcohol and Drug Use) and by the FTA in 49 CFR Part 655 and 49 CFR Part 40 governing the control of drug use and alcohol abuse in railroad and/or transit operations. The program shall also cover random testing of employees. VRE shall be notified of all failures and the deposition thereof.
- B. The Contractor’s procedures for compliance with the required drug and alcohol testing shall be included in a formal drug and alcohol-free workplace policy. These requirements shall include the identification of a testing facility for the Contractor as well as record keeping procedures for testing.
- C. The Contractor has primary responsibility for administering a Substance Abuse Testing Program in accordance with the following regulations: 49 CFR Part 655 - Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations; 49 CFR Part 40 - Procedures for Transportation Workplace Drug and Alcohol Testing Programs; 49 CFR Part 32 - Government-wide Requirements for Drug-Free Workplace; and 49 CFR 219 – Control of Alcohol and Drug Use.

- D. VRE shall have full access to all drug and alcohol tests conducted on employees of the Contactor providing Contract Services.

E.9.2 ADDITIONAL TESTING

- A. The Contractor shall, upon reasonable suspicion and consistent with the drug and alcohol testing policy, conduct drug and alcohol testing of any Contractor personnel not governed by Federal regulations governing drug and alcohol abuse in railroad and/or transit operations.
- B. Testing shall be considered a standard protocol following any incident on VRE or Host Railroad property.

E.10 INCIDENT MANAGEMENT

E.10.1 INCIDENT COMMAND SYSTEM (ICS) & NATIONAL INCIDENT MANAGEMENT SYSTEM (NIMS)

- A. The Contractor's Key Personnel shall be ICS and NIMS certified, specifically ICS 100 and IS 700.
- B. Prior to the start of the Base Period of the Contract, all other Contractor and Subcontractor employees shall be trained in the fundamentals of ICS and NIMS and shall be able to apply the NIMS framework in the event of an incident until first responders arrive on-scene.
- C. New employees of the Contractor or Subcontractors hired after the commencement of the Base Period of the Contract shall be appropriately trained in ICS and NIMS prior to starting work.

E.10.2 INCIDENT NOTIFICATION

- A. VRE staff will be party to any investigation that is conducted by the Contractor regarding service delays, service disruptions, or other incidents that impact the safe execution of the Contract Services.
- B. VRE will conduct its own investigation if VRE deems appropriate. In the event of an incident, the Contractor shall inform VRE immediately. The Contractor shall make telephone contact with a VRE representative from the list provided below:
 - 1. VRE System Safety and Security Manager (primary)
 - 2. VRE Director of Rail Operations (alternate)
 - 3. VRE Deputy CEO (alternate)
 - 4. VRE CEO (alternate)
- C. The Contractor shall provide the following as an initial verbal report:
 - 1. Caller's name and contact telephone number.
 - 2. Time and date of incident.
 - 3. Type of incident.

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4. Location and direction of travel.
 5. Rolling stock and any other vehicles involved.
 6. Number of people injured and requiring medical attention away from the scene and the number of fatal injuries.
 7. If the incident has been reported to any oversight agency – i.e. NTSB, FRA, FTA, EPA, DHS, OSHA, etc.
- D. An interim written incident report shall be transmitted to VRE within twenty-four (24) hours of the incident.
 - E. Any violation of the SSPP, Security Plan or any other safety or security violation related to near misses, train control, and MSF services shall be reported to the designated VRE point of contact immediately. A preliminary written report of such a violation shall be submitted to VRE within twenty-four (24) hours of a suspected incident.
 - F. A full investigative report complete with root cause and corrective actions (if applicable) shall be submitted to VRE within thirty (30) calendar days of the incident. An incident investigation is considered “closed” once VRE has adopted the investigative report as its own.

E.11 NON-COMPLIANCE ON INCIDENT NOTIFICATION

- A. VRE will assess a penalty as specified in **SECTION 03.D - OTHER LIQUIDATED DAMAGES** of the Special Provisions for failure to provide any report required of the Contractor.
- B. The Contractor shall be responsible for the development, documentation, maintenance and training on all incident notification procedures.
- C. The Contractor and its Subcontractors shall participate in any required training as new procedures are implemented by VRE.

E.12 EMERGENCY NOTIFICATIONS

- A. Immediately following the notification of emergency services (e.g. Police, Fire, Rescue, etc.) and/or regulatory agencies (e.g., FRA, NTSB, DHS, EPA, TSA, etc.), the Contractor shall notify VRE in the event of any of the following occurrences:
 1. Incidents defined in 49 CFR 225 per FRA.
 2. Incidents defined in 49 CFR Appendix A to Part 1570 per TSA.
 3. Loss of life, employee injury, passenger injury, stoppage or major disruption of service.
 4. Damage to MSF, station, or equipment, to include VRE rolling stock.
 5. Operating rules violations.
 6. Trespass incidents.

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7. Physical assaults.
8. Incidents of drug or alcohol abuse.
9. Fuel or hazardous material spill.
10. Vandalism or other illegal activity.
11. Sink hole formations.
12. Collision, derailment, fire, explosion, acts of nature, or any other event involving damage to or impacting the operation of VRE rolling stock as observed along the railroad right-of-way.

E.13 SITE VISITS BY REGULATORY AGENCY

Any on-site visit or inspection by the FRA or any other controlling regulatory agency shall be reported to VRE within two (2) hours of the visit. Any violation, order or directive from any regulatory agency shall be reported to VRE immediately.

E.14 OPEN PROCESS FOR SAFETY AND SECURITY PLANNING

VRE expressly prohibits the Contractor from implementing any safety or security related policies, processes or procedures without the explicit review and authorization of VRE. The only exception to this requirement is in the interest of averting a repeat incident within an immediate timeframe.

E.15 SAFETY RECORD

- A. Each Offeror shall include within its Proposal, its safety record, enumerating injuries, property damage, fatalities and hazardous conditions that have occurred during the last five (5) years of its business history. The Contractor shall present safety data for each year of the five (5) years requested, in the following manner, if applicable:
1. Injuries per 10,000 revenue miles.
 2. Injuries per 10,000 unlinked passenger trips.
 3. Fatalities per 10,000 revenue miles.
 4. Fatalities per 1,000 unlinked passenger trips.
 5. Hazardous conditions per 10,000 revenue miles.
 6. FRA Rule Violations per 10,000 revenue miles.
 7. FRA reportable accidents for revenue and non-revenue miles (both including and excluding trespasser strikes).
 8. Employee injuries.

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9. Employee fatalities.
10. Frequency of employee absenteeism discipline per 10,000 revenue miles.

E.16 SAFETY RULES AND SECURITY AT VRE'S RAILROAD FACILITIES

- A. In the performance of the Contract Services, the Contractor shall comply with the safety rules in "VRE's Rules to Live By" available on VRE's website at <https://www.vre.org/contractors/>.
- B. The Contractor shall develop and administer a training program to ensure that staff and new hires (employees and Subcontractors) are trained on the Rules to Live By prior to performing work. The training program shall include a closed book competency test. VRE must review and approve of the training program. The Contractor must maintain records of training administration. The records must be available for VRE review at any time during the term of the Contract.

E.17 COMPREHENSIVE SAFETY PROGRAM

Each Offeror shall include within its Proposal, an outline of a Comprehensive Safety Program currently used to guide and advise employees responsible for Train Operations and Maintenance Services on the safe execution of their job responsibilities.