

REQUEST FOR PROPOSAL (“RFP”) – EXHIBIT P
SINGLE LEVEL FLEET REPLACEMENT PROGRAM
NATIONAL RAILROAD PASSENGER CORPORATION (AMTRAK)
1 Massachusetts Ave NW, Washington DC 20001



EXHIBIT P
FINANCIAL CAPABILITY SUBMITTAL REQUIREMENTS

The financial capability of the Offeror will be evaluated as part of the financial proposal. This exhibit provides the submittal requirements from the Offeror for financial capability.

Financial information described below should be packaged separately for each entity with a cover sheet identifying the name of the organization and its role in the Offeror organization (i.e., Offeror, Equity Member, or Guarantor). Offerors shall identify any information, which it believes is entitled confidential by placing the word “confidential” on each page as described.

1. Financial Statements and Credit Ratings

Financial statements for the Offeror, each Equity Member of Offeror, and each Guarantor for the three most recent completed fiscal years must be provided to demonstrate financial capability of the Offeror. If the entity has been in existence for less than 3 fiscal years, Offeror should expressly state that such entity has been in existence for less than 3 fiscal years and shall provide financial statements for the number of fiscal years it has been in existence.

Financial statement information must include:

- 1.1. Opinion Letter (Auditor’s Report), required for those financial statements that are audited
- 1.2. Balance Sheet
- 1.3. Income Statement
- 1.4. Statement of Changes in Cash Flow
- 1.5. Footnotes, required for those financial statements that are audited.

In addition, financial statements must meet the following requirements:

- 1.6. GAAP - Financial statements must be prepared in accordance with U.S. Generally Accepted Accounting Principles (“U.S. GAAP”) or International Financial Reporting Standards (“IFRS”). If financial statements are prepared in accordance with principles other than U.S. GAAP or IFRS, a letter must be provided from a certified public accountant discussing the areas of the financial statements that would be affected by a conversion to U.S. GAAP or IFRS. A restatement of the financial information in accordance with U.S. GAAP or IFRS is not required.
- 1.7. U.S. Dollars - Financial statements must be provided in U.S. dollars, if available. If financial statements are not available in U.S. dollars, the Offeror must include summaries of the Income Statements and Balance Sheets for the applicable time- periods converted to U.S. dollars by a certified public accountant.

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- 1.8. Audited – Fiscal year-end financial statements must be audited by an independent party qualified to render audit opinions (e.g. a certified public accountant). If audited financials are not available for an entity, the Proposal shall include unaudited financial statements for such entity, certified as true, correct, and accurate by the chief executive officer, chief financial officer, treasurer, or similar position of the entity.
- 1.9. English - Financial statement information must be prepared in English. If audited financial statements are prepared in a language other than English, translations of all financial statement information must be provided with the original financial statement information.
- 1.10. Newly Formed Entity - If the Offeror is a newly formed entity and does not have independent financial statements, financial statements for the Equity Members shall be provided (and the Offeror shall expressly state that the Offeror is a newly formed entity and does not have independent financial statements).
- 1.11. Guarantee - Financial statements of each Guarantor must be provided to demonstrate financial capability of the Offeror. The Offeror shall note that Amtrak may, in its discretion and based upon the review of the information provided, specify that another acceptable Guarantor is required.
- 1.12. SEC Filings - If the Offeror or any other entity for whom financial information is submitted hereby files reports with the Securities and Exchange Commission, then such financial statements shall be provided through a copy of their annual report on Form 10K or Form 20F. For all subsequent quarters, provide a copy of any report filed on Form 10Q, Form 8-K, or Form K-6, which has been filed since the latest filed 10K or 20F.
- 1.13. Notes and Disclosures – Notes and disclosures to the financial statements shall address any material changes in financial condition as described herein and report any off- balance sheet liabilities.
- 1.14. Credit Ratings - If available, credit ratings and credit rating reports must be supplied for each Offeror, Equity Member, and Guarantor that submits financial statements with its Proposal. If credit ratings do not exist for any Offeror, Equity Member, or Guarantor that has submitted financial statements with its Proposal, then the Proposal must include a statement specifying that no credit ratings exist for that entity.

2. Material Changes in Financial Condition

Information regarding any Material Changes in Financial Condition for Offeror, each Equity Member, and Guarantor for the past 3 years and anticipated for the next reporting period must be provided with the Proposal. Financial statements dated more than 12 months prior to the Close Date shall include a letter from the affected entity’s chief financial officer or treasurer or an independent auditor’s statement disclosing any Material Change that has occurred or is pending since the date of the financial statements.

If no Material Change has occurred and none is pending, the Offeror, Equity Member, or Guarantor, as applicable, shall provide a letter from its chief executive, chief financial officer, treasurer, or similar position so certifying. At the discretion of Amtrak, any

failure to disclose a prior or pending Material Change may result in disqualification from further

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participation in the selection process.

In instances where a Material Change has occurred or is anticipated, the affected entity shall provide a statement describing the following:

- 2.1. Each Material Change in detail;
- 2.2. The likelihood that the developments will continue during the period of performance for the Contract; and
- 2.3. The projected full extent of the changes likely to be experienced in the periods ahead.

Estimates of the impact on revenues, expenses, and the change in equity shall be provided separately for each Material Change as certified by the chief executive, chief financial officer or treasurer or similar position. References to the notes in the financial statements are not sufficient to address the requirement to discuss the impact of Material Changes.

Where a Material Change will have a negative financial impact, the affected entity shall also provide a discussion of measures that would be undertaken to insulate the Project from any recent material changes and those currently in progress or reasonably anticipated in the future. If the financial statements indicate that expenses and losses exceed income in each of the 3 completed fiscal years (even if there has not been a material change), the affected entity shall provide a discussion of measures that will be undertaken to make the entity profitable in the future and an estimate of when the entity will be profitable.

The Offeror must disclose to Amtrak any Material Change that occurs after it has submitted its Proposal. Failure to disclose any Material Change that occurred after submission of its Proposal may result in disqualification, at the sole discretion of Amtrak.

3. Guarantor Letter of Support

The Proposal must include a letter from the chief executive, chief financial officer, treasurer, or similar position of each Guarantor explicitly stating that it will guarantee both the performance and financial obligations of the entity on behalf of which it is providing a guarantee.

The Guarantor's financial information shall be used for purposes of evaluating the affected member's financial capability. Following review of the financial information provided and the letter of support, Amtrak may, in its sole discretion, specify that an additional guarantee will be required in order to demonstrate financial capability.

4. Security

The Offeror shall provide a statement certified by the chief financial officer or treasurer of the Proposer that it will be able to obtain all required performance security as required under Section 6 of Exhibit A-1. The Offeror shall also identify the Qualified Issuer(s) that will provide any performance security under the contract and its rating information.

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5. Off-Balance Sheet Liabilities

A letter from the Chief Financial Officer or treasurer of the entity or the certified public accountant for each entity for which financial information shall be submitted, identifying all off- balance sheet liabilities. References to notes in the financial statements are not sufficient for identifying all off-balance sheet liabilities. If no off-balance sheet liabilities exist, then a letter certified by the Chief Financial Officer or treasurer of the entity shall be provided stating that no off-balance sheet liabilities exist.

6. Financing Sources

While the Offeror is not required to arrange or bring financing to deliver the project, should the Offeror intend to use financing to deliver the project, then the Offeror shall describe their plan for financing the project including:

- 6.1. Identity of the lenders or investors anticipated to be used;
- 6.2. Amounts, types and purpose of each financing facility to be used;
- 6.3. Letters of commitment from the anticipated lenders and/or investors;
- 6.4. Term sheets for each facility stating the costs, terms, and other assumptions used to calculate financing costs and amounts, and.
- 6.5. The proposed steps for arranging and closing financing.

7. Major Agreements

The Offeror shall provide the major agreements between the Offeror and its major participants. The major agreements include, but are not limited to, subcontracts, financing agreements, equity agreements, commitment letters, and parent guarantees.

The Offeror shall submit updated agreements to provide sufficient evidence to support the Offeror’s ability to deliver the Project according to its Financial Proposal.