

FLORIDA DEPARTMENT OF TRANSPORTATION
PUBLIC TRANSIT OFFICE

Local Agency Procurement Manual for 5310, 5311, and 5339 Program Sub-Recipients

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FINAL



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Section 1. Introduction/Purpose

The Federal Transit Administration (FTA) provides grant funding through three programs to assist private non-profit groups in meeting the transportation needs of specific populations. These include:

- > **Section 5310: Enhanced Mobility of Seniors and Individuals with Disabilities.** This program provides formula funding to states for the purpose of assisting private nonprofit groups in meeting the transportation needs of older adults and people with disabilities when the transportation service provided is unavailable, insufficient, or inappropriate to meeting these needs.
- > **Section 5311: Formula Grants for Rural Areas.** This program provides support for public transportation in rural areas with populations of less than 50,000, where many residents often rely on public transit to reach their destinations. The program also provides funding for state and national training and technical assistance through the Rural Transportation Assistance Program (RTAP).
- > **Section 5339: Buses and Bus Facilities Grant Program.** The purpose of the Bus Program is to provide funding to replace, rehabilitate and purchase buses and related equipment and to construct bus-related facilities including technological changes or innovations to modify low or no emission vehicles or facilities.

The Florida Department of Transportation (FDOT) has been designated by the Governor to administer the Section 5310 and 5339 Programs for small urban areas (areas with populations between 50,000 and 199,999) and rural areas (areas with populations below 50,000). Additionally, the FDOT administers the 5311 Program that includes funding for the provision of general public transit services designed to serve the mobility needs of rural areas.

When an entity applies for and accepts Federal funds, they also accept the responsibility of maintaining oversight of the procurement process and assuring its Federal compliance. The purpose of this document is to provide procurement guidance to sub-recipients of 5310, 5311, and 5339 funds that do not also receive urban formula funding from the Federal Transit Administration (FTA) as a direct recipient of Section 5307 funding. The focus of this manual is to provide guidance concerning procurement requirements for micro purchases and small purchases, defined as below:

- > Micro Purchase: applies to procurements less than \$2,500.
- > Small Purchase: applies to procurements \$2,500 to \$34,999.

For sealed bids and competitive proposals for procurements of \$35,000 or more, please refer to an overview of the procurement steps outlined in Section 3 and the Florida Department of Transportation's (FDOT) *Procurement Guidance for Transit Agencies* manual (as amended).¹

The information in this document is intended to supplement and clarify the information contained in the aforementioned manual. If any information contained herein conflicts within information contained in

¹ These thresholds are applicable in Florida; Federal thresholds are less than \$3,000 for a micro purchase and \$3,000-\$100,000 for a small purchase. See FTA Circular C 4220.1, Chapter VI, Section 3 (as amended). The Federal simplified acquisition, currently \$100,000, is defined in 41 U.S.C. Section 403(11).

the *Procurement Guidance for Transit Agencies* manual, then that manual supersedes this document. There may be instances in which sub-recipients experience procurement activities or situations not addressed in these guidelines. In those instances, sub-recipients should contact the appropriate FDOT District Grant Program Manager as noted in Section 4.

Section 2. Eligible Expenses

This section outlines the eligible capital, operating, and other expenses for the Section 5310, 5311, and 5339 Program funds.

Eligible Expenses for Section 5310 Program Funds

Eligible expenses for Section 5310 Program funds include capital assistance, operating assistance, and mobility management.

Eligible Expenses for Capital Assistance

Traditional capital expenses as defined by 49 U.S. Code § 5302(3), which include the vehicles, equipment, and/or facilities necessary to carry out the public transportation service. Examples include:

- > Buses, vans or other paratransit vehicles (including sedans and station wagons). Agencies requesting sedans and station wagons will need to provide a service justification for those requests.
- > The capital cost of contracting.
- > Radios and communications equipment.
- > Wheelchair lifts and restraints.
- > Vehicle maintenance.
- > Microcomputer hardware/software and initial installation costs.
- > Vehicle procurement, inspection and acceptance costs.
- > The introduction of new technology.
- > Construction or rehabilitation of transit facilities including design, engineering, and land acquisition.
- > Other durable goods such as spare components with a unit cost over \$300 and a useful life of more than one (1) year.

Eligible Expenses for Operating Assistance

Administrative, management, and operations costs directly related to public transportation services less operating revenue. Operating revenue includes fares paid by passengers, whether such fares are paid at the time service is provided or via prepaid arrangements such as passes or tokens.

Personnel: salaries and benefits for operators, dispatchers, maintenance mechanics, and administrative staff. Other direct expenses include:

- > Fuel and oil
- > Tires, parts, and maintenance
- > Vehicle licenses
- > Vehicle insurance
- > Uniform purchase
- > Capital cost of contracting
- > Administration of third-party contract

Eligible Expenses for Mobility Management

Mobility Management is defined as consisting of short-range planning and management activities and projects for improving coordination among public transportation and other transportation service providers carried out by a recipient or sub-recipient through an agreement entered into with a person, including a governmental entity; but excluding operating public transportation services.²

Eligible Mobility Management activities include:

- > Promoting, enhancing, and facilitating access to transportation services that result in more service options or increases the efficiency of trips for passengers.
- > Conducting short-term management activities to plan and implement coordinated services.
- > Supporting state and local coordination policy bodies and councils.
- > Operating transportation brokerages to coordinate providers, funding agencies, and customers.
- > Providing customer-oriented travel navigator systems and neighborhood travel coordination activities such as coordinating individualized travel training and trip planning activities for customer
- > Conducting operations planning for the acquisition of intelligent transportation technologies.
- > Developing and operating one-stop transportation traveler call centers to coordinate transportation information on all travel modes and to manage eligibility requirements and arrangements for customers among supporting programs.

Eligible Expenses for Section 5311 Program Funds

Eligible expenses Section 5311 Program funds include planning, capital, operating, Job Access and Reverse Commute projects, and the acquisition of public transportation services.

Eligible Expenses for Capital Assistance

Includes traditional capital expenses as defined by 49 U.S. Code § 5302(3), which include the vehicles, equipment, and/or facilities necessary to carry out the public transportation service. See examples provided under Section 2.1: Eligible Expenses for Section 5310 Program Funds (Eligible Expenses for Capital Assistance).

Eligible Expenses for Operating Assistance

Administrative, management, and operations costs directly related to public transportation services in rural areas less operating revenue. See examples provided under Section 2.1: Eligible Expenses for Section 5310 Program Funds (Eligible Expenses for Operating Assistance).

Eligible Expenses for Mobility Management

See definition and examples provided under Section 2.1: Eligible Expenses for Section 5310 Program Funds (Eligible Expenses for Mobility Management).

Eligible Expenses for Job Access and Reverse Commute Projects

The Job Access and Reverse Commute (JARC) program was established under 49 U.S. Code § 5316 to address the unique transportation challenges faced by welfare recipients and low-income persons seeking to obtain and maintain employment. While this program was repealed in 2012 by The Moving Ahead for Progress in the 21st Century Act (MAP-21) Federal funding authorization, JARC projects are an

² 49 U.S. Code § 5302

eligible expense under the Section 5307 program. This includes capital, planning and operating expenses for projects that transport low income individuals to and from jobs and activities related to employment, and for reverse commute projects. There is no requirement or limit to the amount of Section 5307 funds that can be used for JARC projects.

Eligible Expenses for Section 5339 Program Funds

Eligible expenses for Section 5339 Program Funds include capital projects.

Eligible Expenses for Capital Assistance

Capital projects related to buses and bus facilities. This includes:

- > Replacement, rehabilitation and purchase of buses, vans, and related equipment.
- > Construction of or technological changes/innovations to bus-related facilities.
- > Modifications to vehicles or facilities to low- or no emission.

Section 3. Procurement Process

As the Administrator of Section 5310 and 5339 funds to non-direct recipients and Section 5311 funds, FDOT must ensure that sub-recipients are aware of and comply with Federal procurement requirements indicated in FTA Circular C 4220.1 (as amended). To qualify for maximum reimbursement, all purchases made by recipients with FTA funds must follow appropriate procurement procedures. As such, sub-recipients are encouraged to:

- a. Make the designated FDOT District Grant Program Manager aware of their intent to purchase a good or service before the procurement is initiated.
- b. Work with the designated FDOT District Grant Program Manager, as necessary, to ensure that proper steps are followed throughout the procurement process. Although this may not be necessary for micro purchases, it is encouraged for small purchases and competitive bids.
- c. Submit clear and complete documentation via email to the designated FDOT District Grant Program Manager before issuing a purchase order or contract.

Figure 3-1 on the following pages outlines the procurement processes for micro purchases, small purchases, and competitive bids or sealed proposals. More information on these procurement procedures is provided later in this section as well as in referenced appendices.

Procurement Type Determination

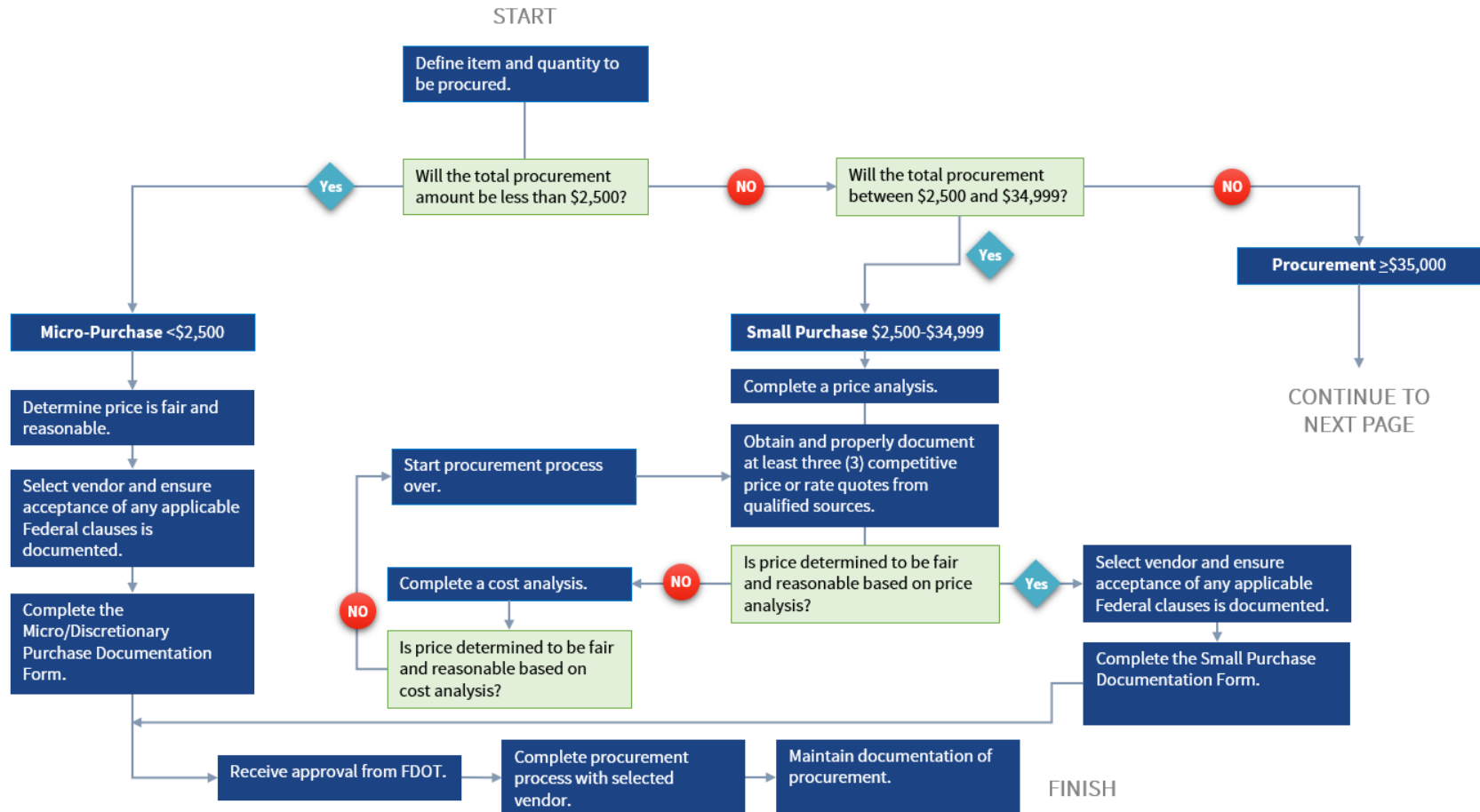
As shown in Figure 3-1, the total procurement cost determines the type of procurement process that must be followed: micro purchase, small purchase, or competitive proposal/sealed bid.

Sub-recipients are prohibited from dividing or reducing the size of a procurement merely to avoid the additional procurement requirements applicable to larger acquisitions. For example, a procurement that would otherwise be considered a small purchase cannot be split into several different procurements so that each separate procurement would then fall under the micro purchase threshold of \$2,500.³

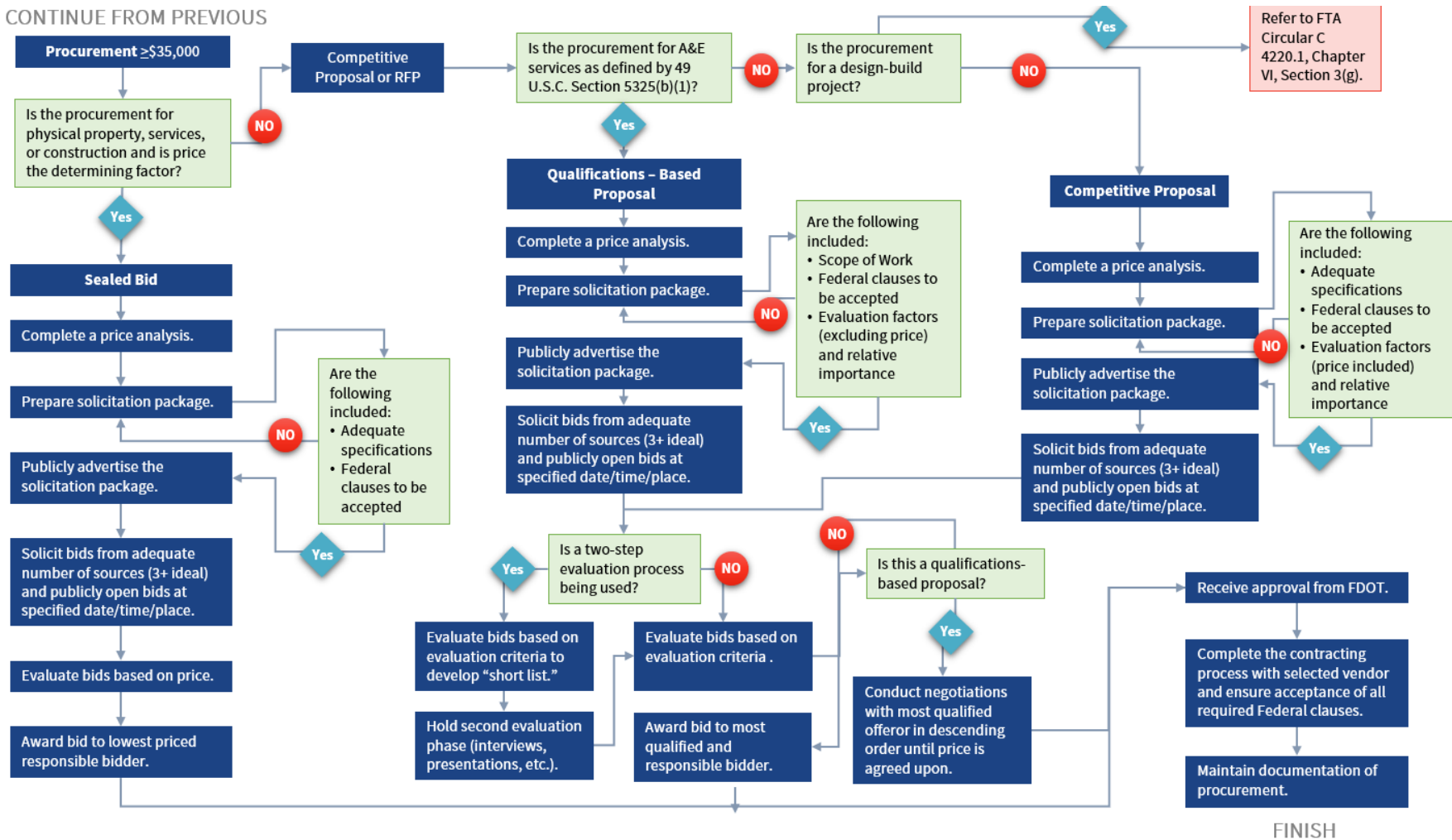
If the amount of a procurement is close to the threshold of the next procurement level, sub-recipients should comply with the requirements of the next procurement level, as it is more difficult to ensure compliance at a later date. For example, if procurement is anticipated to come in under the micro purchase threshold of \$2,500, but there is reasonable chance that the amount ultimately paid for that procurement could exceed \$2,500, the sub-recipient should treat the procurement as a small purchase from the beginning of the procurement process to ensure that all aspects of the procurement are ultimately in compliance if the \$2,500 threshold is, in fact, exceeded.

³ FTA Circular C 4220.1, Chapter VI (3)(a)(2)(b) and (3)(b)(2)(b) (as amended).

Figure 3-1: Procurement Process Steps



CONTINUE FROM PREVIOUS



Procurement Duration

FDOT specifies in capital contracts that the sub-recipient must complete all purchases within a one-year period. The funds will lapse at the end of the one-year period if the sub-recipient has not implemented all purchases. FDOT may, however, exercise its discretion to approve an extension to a grant on a case-by-case basis and, depending on the type of purchase, whether the sub-recipient demonstrates that “reasons beyond its control” (lack of planning excluded), is in compliance with all applicable procurement policies and requirements, and has demonstrated: 1) that a good faith effort has been made to complete the purchases, and 2) that it can complete such purchases within a reasonable amount of time.

Procurement Policies

Sub-recipients with historical or anticipated upcoming procurements that meet (or exceed) the small purchase threshold are required to develop an internal procurement policy document that outlines the processes and procedures the agency will use to ensure compliance with all Federal and state regulations as noted within this document. The internal procurement policy document must be reviewed and approved by the FDOT Grant Program Manager every three (3) years. Sub-recipients that only purchase vehicles with Federal grant funds are not be required to have an approved internal procurement policy on file; however, if other purchases or procurements outside of vehicles are sought, the sub-recipient may not proceed until an internal procurement policy document has been developed and approved by the FDOT District Grant Program Manager. A sample agency procurement policy is provided in Appendix B for reference.

Micro Purchase Procedures

Purchases under \$2,500 must be completed using the micro-purchase procedures outlined below and as previously illustrated in Figure 3-1. As previously noted, dividing or reducing the size of a procurement to avoid the requirements of a small purchase is not allowed.

A micro-purchase may be made without obtaining competitive quotes if the sub-recipient determines that the price to be paid is fair and reasonable (e.g., based on recent research, experience, or purchases). Micro purchases should be distributed among qualified buyers within a reasonable geographic area.

Micro purchase procedures include the following steps:

1. The sub-recipient determines the item and quantity to be purchased based on the grant award.
2. The sub-recipient gathers price information to determine if it is fair and reasonable. This normally will be based on a comparison of historical prices paid for the item or commercial/Internet catalog or advertised prices.
 - a. The sub-recipient may also obtain quotes (orally or written), but it is not required.⁴
3. Select the vendor and ensure acceptance of any applicable Federal clauses is documented.

⁴ Refer to Section 3 for procedures to obtaining quotes for a small purchase that can also be applied to a micro purchase.

4. The sub-recipient completes the Micro Purchase Documentation Form provided in Appendix C and submits to the FDOT Grant Program Manager for review and approval. For this reason, it is crucial the PO clearly specify the item(s) or service(s) being purchased and the terms and conditions of the purchase.
5. The FDOT Program Manager must approve all Federally funded micro purchases before the recipient places a written or oral purchase order. As such, FDOT encourages recipients to work collaboratively with FDOT to ensure that recipients are in full compliance with all Federal and State regulations and can show documented evidence to support the recommendation and decision to make a micro purchase award.
6. The sub-recipient will then complete the procurement process with the selected vendor.
7. The sub-recipient must keep documentation to support the method of purchase, basis for vendor selection, and reasonableness of price.

Small Purchase Procedures

Purchases \$2,500 or greater but less than \$35,000 must be completed using the small purchase procedures outlined below and as previously illustrated in Figure 3-1. As previously noted, dividing or reducing the size of a procurement to avoid the requirements of a competitive procurement required for procurements \$35,000 or greater is not allowed.

Small purchase procedures include the following steps:

1. The sub-recipient completes a price or cost analysis.

The price analysis for a micro purchase is limited to ensuring the cost of the procurement is fair and reasonable. For small purchases, it is still abbreviated compared to that required for a competitive bid procurement, but more detailed than required for a micro purchase. The purpose of a price analysis (sometimes also referred to as an independent cost estimate) is to demonstrate that the quotes solicited are fair and reasonable and in line with the anticipated cost for the goods and services being procured.

The price analysis should be completed before beginning a procurement request, i.e., when requesting funds for a grant application. Appendix E provides an example form for a small purchase price or cost analysis.

2. The sub-recipient solicits at least three competitive price or rate quotes from an adequate number of qualified sources.

Competitive quotes may be obtained in writing or verbally. Verbal quotes are acceptable for commercially available items, while written quotes are more appropriate when it is necessary to provide vendors with detailed specifications or information about the procurement that cannot be conveyed orally or when pricing for specific items is needed for evaluation.

Quotes must be adequately documented and include the names and address of vendor, item description, unit price, all other fees and charges, and applicable taxes.

3. The sub-recipient completes a cost analysis if needed.

If, based on a price analysis, the sub-recipient is able to document a determination that the price is fair and reasonable, and if the bid is responsive and the bidder responsible, the sub-recipient may proceed with award. If, however, the reasonableness of the bid cannot be determined based on a price analysis, then the sub-recipient will have to request a detailed breakdown of costs and profit from the bidder and perform a *cost analysis*.

A cost analysis is the review and evaluation of the separate cost elements and profit in an offeror's or contractor's proposal and the application of judgment to determine how well the proposed costs represent what the cost of the contract should be, assuming reasonable economy and efficiency.

A cost analysis also is required if the procurement is being sought as a sole source purchase (including contract modification or change order) or the solicitation required the submittal of specific cost elements, i.e., labor hours, overhead, materials, etc.

A cost analysis is more complex and detailed than a price analysis. Therefore, it is recommended to use a price analysis whenever possible. For more information as to how to complete a cost analysis, please refer to FTA's *Best Practices Procurement Manual*, Section 5.2.

4. The sub-recipient selects the vendor/contractor and ensures acceptance of all appropriate Federal clauses.
5. The sub-recipient completes the Small Purchase Documentation Form provided in Appendix D.

Generally, a comparison of proposed prices received in response to the solicitation is sufficient to establish price reasonableness. Other methods to determine price reasonableness may include:

- > Comparison of catalog or market prices
- > Comparison of regulated prices such as utility purchases
- > Comparison with recent prices for similar goods and services

The sub-recipient is required to complete the form found in Appendix F to provide a sole source justification if only one price or rate quotation is received.

6. The sub-recipient submits the small purchase documentation form to the FDOT District Grant Program Manager and obtains approval for purchase from FDOT.
7. The sub-recipient will then complete the procurement process with the selected vendor.
8. The sub-recipient must keep documentation to support the method of purchase, basis for vendor selection, and reasonableness of price.

Other requirements for small purchase procurements include:

- > Using appropriate specifications and avoiding unduly restrictive specifications, such as specifying only a "brand name" product instead of allowing "an equal" product to be offered without listing its salient characteristics.
- > Not applying a geographic preference for local or in-state suppliers when evaluating quotes for award (except when purchasing architectural engineering services).

- > Sub-recipients should periodically review purchases to discern procurement patterns for a particular product or service.

Competitive Bid/Sealed Proposal Procedures

The specific procedures for procurements equal to or greater than \$35,000 vary depending on the type of property, good, material, or services being procured. Figure 3-1 outlines the process for determining the type of procurement required and the specific actions that must be taken.

For more information regarding competitive bids or sealed proposal procurements, please reach out to your District Grant Program Manager as listed in Section 4.

Federal Clauses

It is the responsibility of the sub-recipient to ensure that all Federal requirements, required clauses, and certifications are properly followed and included, whether in a master contract or in a purchase document/order.

Generally, Federal clauses do not apply to micro purchases, with the exception of construction contracts between \$2,000 and \$2,499. In this event, the applicant should review all Federal clauses to identify those appropriate to consider in their procurement process. Small purchases require compliance with different Federal clauses, depending on the dollar amount and/or type of procurement. Those more common Federal clauses or those that are likely to be applicable to a small purchase procurement process are described in more detail below.

A full list of Federal clauses that may apply based on type of procurement, procurement amount, or other circumstances are listed in Table 3-1 followed by descriptions of more common Federal clauses. If any Federal clauses should apply, then the issuance of a contract or purchase document/order should include reference to the applicable Federal clause(s) and the appropriate Federal Clause checklists from FDOT's *Procurement Guidance for Transit Agencies* should be completed. Examples of these checklists are included in Appendix A. For a small purchase, the sub-recipient may provide a separate signature page indicating that the contractor or supplier agrees to the applicable Federal clause(s). An example of this signature page is also included in Appendix A.

Table 3-1: Applicable Federal Clauses

| Applicable Federal Clauses | Applicable Type of Procurement (Professional Services/A&E, Operations Management Sub-recipients, Revenue Rolling Stock Construction, Materials & Supplies) |
|---|---|
| Applicable Federal Clauses (excluding micro-purchases) except for construction contracts over \$2,000: | |
| 15. NO GOVERNMENT OBLIGATION TO THIRD PARTIES | All |
| 18. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS 49 U.S.C. § 5323(l) (1) 31 U.S.C. §§ 3801-3812 18 U.S.C. § 1001 49 C.F.R. part 31 | All |
| 1. ACCESS TO RECORDS AND REPORTS 49 U.S.C. § 5325(g) 2 C.F.R. § 200.333 49 C.F.R. part 633 | All |
| FEDERAL CHANGES 49 CFR Part 18 | All |
| 8. CIVIL RIGHTS REQUIREMENTS 29 U.S.C. § 623, 42 U.S.C. § 2000 42 U.S.C. § 6102, 42 U.S.C. § 12112 42 U.S.C. § 12132, 49 U.S.C. § 5332 29 CFR Part 1630, 41 CFR Parts 60 et seq. | All |
| 9. DISADVANTAGED BUSINESS ENTERPRISE (DBE) 49 CFR Part 26 | All |
| INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS FTA Circular 4220.1E or subsequent revisions | All |
| 11. ENERGY CONSERVATION REQUIREMENTS 42 U.S.C. 6321 et seq. 49 C.F.R. part 622, subpart C | All |
| 6. CHARTER BUS OPERATIONS 49 U.S.C. 5323(d) and (r) 49 C.F.R. part 604 | Operations/Management Sub-recipients |
| 22. SCHOOL BUS OPERATIONS 49 U.S.C. 5323(f) 49 C.F.R. part 605 | Operations/Management Sub-recipients |
| Applicable Federal Clauses when procurement exceeds \$10,000: | |
| 25. TERMINATION 2 C.F.R. § 200.339 2 C.F.R. part 200, Appendix II (B) | All |

Applicable Federal Clauses when procurement exceeds \$25,000:

13. GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)

| | |
|--|-----|
| 2 C.F.R. part 180 2 C.F.R part 1200 2 C.F.R. § 200.213 2 C.F.R. part 200 Appendix II (I) Executive Order 12549 Executive Order 12689 | All |
|--|-----|

Applicable Federal Clauses when procurement exceeds \$100,000

14. LOBBYING RESTRICTIONS

| | |
|---|-----|
| 31 U.S.C. § 1352 2 C.F.R. § 200.450 2 C.F.R. part 200 appendix II (J) 49 C.F.R. part 20 | All |
|---|-----|

10. EMPLOYEE PROTECTIONS

| | |
|--|-----|
| 49 U.S.C. § 5333(a) 40 U.S.C. §§ 3141 – 3148 29 C.F.R. part 5 18 U.S.C. § 874 29 C.F.R. part 3 40 U.S.C. §§3701-3708 29 C.F.R. part 1926 | All |
|--|-----|

17. PRE AWARD AND POST-DELIVERY AUDITS OF ROLLING STOCK PURCHASES

| | |
|---|----------------------------|
| 49 U.S.C. 5323(m) 49 C.F.R. part 663 | Rolling Stock procurements |
|---|----------------------------|

2. BONDING REQUIREMENTS

| | |
|--|--------------|
| 2 C.F.R. § 200.325 31 C.F.R. part 223 | Construction |
|--|--------------|

Applicable Federal Clauses when procurement exceeds \$150,000

26. VIOLATION AND BREACH OF CONTRACT

| | |
|--|-----|
| 2 C.F.R. 200.326 2 C.F.R. part 200, Appendix II (A) | All |
|--|-----|

7. CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

| | |
|---|-----|
| 42 U.S.C. 7401 – 7671q 33 U.S.C. 1251 – 1387 2 C.F.R. part 200, Appendix II (G) | All |
|---|-----|

4. BUY AMERICA

| | |
|--------------------------------------|--|
| 49 U.S.C. 5323(j) 49 CFR Part 661 | Revenue Rolling Stock, Construction, Materials and Supplies (for steel, iron, manufactured products) |
|--------------------------------------|--|

| Applicable Federal Clauses When Specific Conditions Are Met: | |
|--|---|
| 4. CARGO PREFERENCE REQUIREMENTS 46 U.S.C. 1241 46 CFR Part 381 | Revenue rolling stock, construction, or materials/supplies that may be transported by ocean vessel |
| 2. FLY AMERICA 49 U.S.C. § 40118 41 C.F.R. part 301-10 48 C.F.R. part 47.4 | All procurement involving foreign transport or travel by air |
| 5. SEISMIC ACTIVITY 42 U.S.C. 7701 et seq. 49 CFR Part 41 | A&E or construction for new buildings and additions |
| 27. PUBLIC TRANSPORTATION EMPLOYEE PROTECTIVE ARRANGEMENTS 49 U.S.C. § 5333(b) (“13(c)”) 29 C.F.R. part 215 | Transit operations funded with Section 5307, 5309, 5311, or 5316 funds. |
| 31. SUBSTANCE ABUSE REQUIREMENTS 49 U.S.C. § 5331 49 C.F.R. part 655 49 C.F.R. part 40 | Transit operations funded with Section 5307, 5309, 5311, or 5316 funds. |
| 16. PATENT AND RIGHTS IN DATA AND COPYRIGHTS REQUIREMENTS 37 CFR Part 401 49 CFR Parts 18 and 19 | Research and development for professional services/A&E procurements |
| 15. RECYCLED PRODUCTS 42 U.S.C. § 6962 40 C.F.R. part 247 2 C.F.R. part § 200.322 | Contracts for items designated by the Environmental Protection Agency (EPA) when procuring \$10,000 or more per year for operations/management sub-recipients or construction and materials/supplies procurements |
| 23. Seismic Safety 42 U.S.C. 7701 et seq. 49 C.F.R. part 41 Executive Order (E.O.) 12699 | A&E for New Building and Additions |
| ADA ACCESS 42 U.S. Code Chapter 126 – Equal Opportunity for Individuals With Disabilities (Americans with Disabilities Act) 49 CFR Parts 27, 37, 38, and 29 (Transportation) FTA C 4710.1 Americans with Disabilities Act (ADA) Guidance | All |

No Government Obligation to Third Parties

While no specific language is required, FTA has developed the following language:

1. The Purchaser and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the Purchaser, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

2. The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

Program Fraud and False or Fraudulent Statements and Related Acts

These requirements have no specified language, so FTA proffers the following language:

1. The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 *et seq.* and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA-assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.
2. The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.
3. The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

Access to Records and Reports

Table 3-2 outlines reporting/record access requirements by type of contract for State and non-State grantees. The specified language below is not mandated by the statutes or regulations referenced, but the language provided paraphrases the statutory or regulatory language:

- a) Record Retention. The Contractor will retain, and will require its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the contract, including, but not limited to, data, documents, reports, statistics, sub-agreements, leases, subcontracts, arrangements, other third party agreements of any type, and supporting materials related to those records.

Table 3-2: Requirements for Access to Records and Reports by Types of Contract

| Contract Characteristics | Operational Service Contract | Turnkey | Construction | Architectural Engineering | Acquisition of Rolling Stock | Professional Services |
|---|--|--|--|-----------------------------------|-----------------------------------|-----------------------------------|
| <u>I State Grantees</u> | | | | | | |
| a. Contracts below SAT (\$100,000) | None | Those imposed on State pass thru to Contractor | None | None | None | None |
| b. Contracts above \$100,000/ Capital Projects | None unless ¹ non-competitive award | Those imposed on State pass thru to Contractor | Yes, if non-competitive award or if funded thru ² 5307/5309/ 5311 | None unless non-competitive award | None unless non-competitive award | None unless non-competitive award |
| <u>II Non State Grantees</u> | | | | | | |
| a. Contracts below SAT (\$100,000) | Yes ³ | Those imposed on non-State Grantee pass thru to Contractor | Yes | Yes | Yes | Yes |
| b. Contracts above \$100,000/ Capital Projects | Yes ³ | Those imposed on non-State Grantee pass thru to Contractor | Yes | Yes | Yes | Yes |

Sources of Authority: 1. 49 USC 5325 (a), 2. 49 CFR 633.17, 3. 18 CFR 18.36 (i)

- b) **Retention Period.** The Contractor agrees to comply with the record retention requirements in accordance with 2 C.F.R. §200.333. The Contractor shall maintain all books, records, accounts and reports required under this Contract for a period of at not less than three (3) years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto.
- c) **Access to Records.** The Contractor agrees to provide sufficient access to FTA and its contractors to inspect and audit records and information related to performance of this contract as reasonably may be required.
- d) **Access to the Sites of Performance.** The Contractor agrees to permit FTA and its contractors access to the sites of performance under this contract as reasonably may be required

Federal Changes

No specific language is mandated; the following language has been developed by FTA:

Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between Purchaser and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

Civil Rights Requirements

Every federally funded contract must include an Equal Opportunity clause. Recipient can draw on the following language for inclusion in their federally funded procurements.

Civil Rights and Equal Opportunity

The AGENCY is an Equal Opportunity Employer. As such, the AGENCY agrees to comply with all applicable Federal civil rights laws and implementing regulations. Apart from inconsistent requirements imposed by Federal laws or regulations, the AGENCY agrees to comply with the requirements of 49 U.S.C. § 5323(h) (3) by not using any Federal assistance awarded by FTA to support procurements using exclusionary or discriminatory specifications.

Under this Agreement, the Contractor shall at all times comply with the following requirements and shall include these requirements in each subcontract entered into as part thereof.

1. **Nondiscrimination.** In accordance with Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, disability, or age. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.
2. **Race, Color, Religion, National Origin, Sex.** In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e et seq., and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs,

Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60, and Executive Order No. 11246, "Equal Employment Opportunity in Federal Employment," September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. § 2000e note. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, or sex (including sexual orientation and gender identity). Such action shall include, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

3. **Age.** In accordance with the Age Discrimination in Employment Act, 29 U.S.C. §§ 621-634, U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
4. **Disabilities.** In accordance with Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 et seq., the Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against individuals on the basis of disability. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

Incorporation of FTA Terms

FTA has developed the following incorporation of terms language:

The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1E, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any (name of grantee) requests which would cause (name of grantee) to be in violation of the FTA terms and conditions.

Termination

All contracts (with the exception of contracts with non-profit organizations and institutions of higher education) in excess of \$10,000 shall contain suitable provisions for termination by the grantee including the manner by which it will be effected and the basis for settlement. FTA does not prescribe the form or content of such clauses; however, suggestions of clauses to be used in different types of contracts are provided in FTA's Best Practices Procurement Manual - Appendix A.1, 21.

Government-Wide Debarment and Suspension

This clause applies to contracts over \$25,000. The following clause language is suggested, not mandatory. It incorporates the optional method of verifying that contractors are not excluded or disqualified by certification:

The Contractor shall comply and facilitate compliance with U.S. DOT regulations, “Nonprocurement Suspension and Debarment,” 2 C.F.R. part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) “Guidelines to Agencies on Government wide Debarment and Suspension (Nonprocurement),” 2 C.F.R. part 180. These provisions apply to each contract at any tier of \$25,000 or more, and to each contract at any tier for a federally required audit (irrespective of the contract amount), and to each contract at any tier that must be approved by an FTA official irrespective of the contract amount. As such, the Contractor shall verify that its principals, affiliates, and subcontractors are eligible to participate in this federally funded contract and are not presently declared by any Federal department or agency to be:

- a) Debarred from participation in any federally assisted Award;
- b) Suspended from participation in any federally assisted Award;
- c) Proposed for debarment from participation in any federally assisted Award;
- d) Declared ineligible to participate in any federally assisted Award;
- e) Voluntarily excluded from participation in any federally assisted Award; or
- f) Disqualified from participation in any federally assisted Award.

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by the AGENCY. If it is later determined by the AGENCY that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to the AGENCY, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. part 180, subpart C, as supplemented by 2 C.F.R. part 1200, while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

Lobbying Restrictions

49 C.F.R. part 20, Appendices A and B provide specific language for inclusion in FTA funded third party contracts as follows:

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

_____ Signature of Contractor's Authorized Official

_____ Name and Title of Contractor's Authorized Official

_____ Date

(End of statement)

Disadvantaged Business Enterprise (DBE)

For all DOT-assisted contracts, each FTA recipient must include assurances that third party contractors will comply with the DBE program requirements of 49 C.F.R. part 26, when applicable. The following contract clause is required in all DOT-assisted prime and subcontracts:

The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 C.F.R. part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

1. Withholding monthly progress payments;
2. Assessing sanctions;
3. Liquidated damages; and/or
4. Disqualifying the contractor from future bidding as non-responsible. 49 C.F.R. § 26.13(b).

Further, recipients must establish a contract clause to require prime contractors to pay subcontractors for satisfactory performance of their contracts no later than 30 days from receipt of each payment the recipient makes to the prime contractor. 49 C.F.R. § 26.29(a). Finally, for contracts with defined DBE contract goals, each FTA recipient must include in each prime contract a provision stating that the contractor shall utilize the specific DBEs listed unless the contractor

obtains the recipient's written consent; and that, unless the recipient's consent is provided, the contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE. 49 C.F.R. § 26.53(f) (1).

Further guidance and language for inclusion in federally funded procurements is provided in FTA's Best Practices Procurement Manual – Appendix A.9

Section 4. District Grant Program Manager Contacts

For more information on the FTA Section 5310, 5311, or 5339 Programs, including questions relating to procurement, please contact the appropriate District representative. Contact information below is current as of September 30, 2019.

District 1

Charlene Ross

Transit Projects Coordinator
charlene.ross@dot.state.fl.us
863-519-2390

Kelley Fernandez

Transit Projects Coordinator
kelly.fernandez@dot.state.fl.us
239-225-1982

District 2

Sandra Collins

Multimodal Programs Specialist
sandra.collins@dot.state.fl.us
386-961-7870

Janell Damato

Urban/Rural Transit Coordinator
janell.damato@dot.state.fl.us
904-360-5687

Theodis Perry

Urban Transit Coordinator
theodis.perry@dot.state.fl.us
904-360-5414

District 3

Debbie "Toni" Prough

Public Transit Program Specialist
debbie.Prough@dot.state.fl.us
850-330-1558

District 4

Jayne Pietrowski

Senior Transit Coordinator
jayne.pietrowski@dot.state.fl.us
954-777-4661

Wibet Hay

Transit Coordinator
wibet.hay@dot.state.fl.us
954-777-4573

Marie Dorismond

Transit Coordinator
marie.dorismond@dot.state.fl.us
954-777-4605

District 5

Diane Poitras

Transit Programs Administrator
diane.poitras@dot.state.fl.us
407-482-7860

Jo Santiago

Transit Project Coordinator
jo.santiago@dot.state.fl.us
407-482-7875

Carlos Colon

Transit Project Coordinator
carlos.colon@dot.state.fl.us
407-482-7856

District 6

Raymond Freeman

Transit Programs Administrator
raymond.freeman@dot.state.fl.us
305-470-5255

District 7

Dave Newell

Transit Coordinator
dave.newell@dot.state.fl.us
813-975-6195

Section 5. Additional Resources

Procurement FAQs

A series of procurement related “Frequently Asked Questions” or FAQs were compiled during local agency procurement trainings conducted around Florida between August 2017 and April 2019. A copy of the FAQs is provided in Appendix G.

Procurement Resource Guides

Procurement resource guides can be found in Appendix H that address the following topics:

- > Acquisition through Assigned Contract Rights or “Piggybacking”
- > Purchasing through the Florida Department of Management Services Contracts
- > Joint Procurements

Procurement-Related Websites

Notable procurement-related materials are listed below.

FTA Circular C 4220.1F, *Third Party Contracting Guidance*

<https://www.transit.dot.gov/regulations-and-guidance/fta-circulars/third-party-contracting-guidance>

FTA Best Practice Procurement Manual

<https://www.transit.dot.gov/funding/procurement/best-practices-procurement-manual>

FDOT Guidance for Transit Agencies (2014)

https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/transit/documents/procurement-guidance-combined.pdf?sfvrsn=df784b3c_2

Appendix A: Federal Clause Checklists & Sample Acceptance Letter

This appendix contains the following:

- > Professional Services and Architectural Engineering Services Federal Clause Checklist
- > Operations & Management Sub-recipients Federal Clause Checklist
- > Rolling Stock Federal Clause Checklist
- > Construction Federal Clause Checklist
- > Materials & Supplies Federal Clause Checklist
- > Sample Paragraph for Acceptance of Federal Clauses for Small Purchases



GUIDE FOR PROFESSIONAL SERVICES AND ARCHITECTURAL ENGINEERING SERVICES - CHECKLIST

| Applicable Federal Clauses Excluding micro-purchases, except for construction contracts over \$2,000 | Location of Requirement in Purchasing Package |
|--|---|
| <u>19. NO GOVERNMENT OBLIGATION TO THIRD PARTIES</u> | |
| <u>20. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS</u> 31 U.S.C. 3801 et seq. 49 CFR Part 31 18 U.S.C. 1001 49 U.S.C. 5307 | |
| <u>11. ACCESS TO RECORDS AND REPORTS</u> 49 U.S.C. 5325 18 CFR 18.36 (i) 49 CFR 633.17 | |
| <u>12. FEDERAL CHANGES</u> 49 CFR Part 18 | |
| <u>24. CIVIL RIGHTS REQUIREMENTS</u> 29 U.S.C. § 623, 42 U.S.C. § 2000 42 U.S.C. § 6102, 42 U.S.C. § 12112 42 U.S.C. § 12132, 49 U.S.C. § 5332 29 CFR Part 1630, 41 CFR Parts 60 et seq. | |
| <u>28. DISADVANTAGED BUSINESS ENTERPRISE (DBE)</u> 49 CFR Part 26 | |
| <u>30. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS</u> FTA Circular 4220.1E or subsequent revisions | |
| <u>6. ENERGY CONSERVATION REQUIREMENTS</u> 42 U.S.C. 6321 et seq. 49 CFR Part 18 | |
| Does procurement exhibit Geographic Preference? For reference purposes: 49 CFR 18.36 (c)(1)(2) and FTA C 4220.1F, Ch. VI, Section 2.a (4)(g) | |
| Has proposed contracted entity been verified that they are not excluded or disqualified through the Excluded Parties List System (EPLS)? For reference purposes: https://www.sam.gov/portal/public/SAM/ | |
| Has an adequate number of sources been solicited? | |
| Has applicable ADA language been included? | |
| Has an adequate cost analysis been performed? For reference purposes: 49 CFR 18.36 (f)(1) and FTA C 4220.1F, Ch. VI, Section 6 | |
| Additional Federal Clauses when procurement exceeds \$10,000 | Location of Requirement in Purchasing Package |
| <u>21. TERMINATION</u> 49 U.S.C. Part 18 FTA Circular 4220.1E or subsequent revisions | |

| | |
|---|--|
| Additional Federal Clauses when procurement exceeds \$25,000 | Location of Requirement in Purchasing Package |
| 22. GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) | |
| Additional Federal Clauses when procurement exceeds \$100,000 | Location of Requirement in Purchasing Package |
| <u>25. BREACHES AND DISPUTE RESOLUTION</u> 49 CFR Part 18 FTA Circular 4220.1E or subsequent revisions | |
| <u>10. LOBBYING</u> 31 U.S.C. 1352 49 CFR Part 19 49 CFR Part 20 | |
| <u>14. CLEAN AIR</u> 42 U.S.C. 7401 et seq 40 CFR 15.61 49 CFR Part 18 | |
| <u>7. CLEAN WATER REQUIREMENTS</u> 33 U.S.C. 1251 | |
| Additional Federal Clauses when procurements involve foreign transport or travel by air | Location of Requirement in Purchasing Package |
| 2. <u>FLY AMERICA REQUIREMENTS</u> 49 U.S.C. § 40118 41 CFR Part 301-10 | |
| Additional Federal Clauses when procurements involve A&E for New Buildings & Additions | Location of Requirement in Purchasing Package |
| <u>5. SEISMIC SAFETY REQUIREMENTS</u> 42 U.S.C. 7701 et seq. 49 CFR Part 41 | |
| Additional Federal Clauses when procurements involve Research & Development | Location of Requirement in Purchasing Package |
| <u>26. PATENT AND RIGHTS IN DATA</u> 37 CFR Part 401 49 CFR Parts 18 and 19 | |
| Additional Federal Clauses when procurements involve Architectural & Engineering | Location of Requirement in Purchasing Package |
| Has applicable ADA language been included? | |

Approval:

Subrecipient _____ Date: _____

Approval:

Florida Department of Transportation

_____ Date: _____



GUIDE FOR OPERATIONS, MANAGEMENT, SUBRECIPIENTS - CHECKLIST

| Applicable Federal Clauses Excluding micro-purchases, except for construction contracts over \$2,000 | Location of Requirement in Purchasing Package |
|--|--|
| <u>19. NO GOVERNMENT OBLIGATION TO THIRD PARTIES</u> | |
| <u>20. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS</u> 31 U.S.C. 3801 et seq. 49 CFR Part 31 18 U.S.C. 1001 49 U.S.C. 5307 | |
| <u>11. ACCESS TO RECORDS AND REPORTS</u> 49 U.S.C. 5325 18 CFR 18.36 (i) 49 CFR 633.17 | |
| <u>12. FEDERAL CHANGES</u> 49 CFR Part 18 | |
| <u>24. CIVIL RIGHTS REQUIREMENTS</u> 29 U.S.C. § 623, 42 U.S.C. § 2000 42 U.S.C. § 6102, 42 U.S.C. § 12112 42 U.S.C. § 12132, 49 U.S.C. § 5332 29 CFR Part 1630, 41 CFR Parts 60 et seq. | |
| <u>28. DISADVANTAGED BUSINESS ENTERPRISE (DBE)</u> 49 CFR Part 26 | |
| <u>30. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS</u> FTA Circular 4220.1E or subsequent revisions | |
| <u>6. ENERGY CONSERVATION REQUIREMENTS</u> 42 U.S.C. 6321 et seq. 49 CFR Part 18 | |
| <u>3. CHARTER BUS REQUIREMENTS</u> 49 U.S.C. 5323(d) 49 CFR Part 604 | |
| <u>3. SCHOOL BUS REQUIREMENTS</u> 49 U.S.C. 5323(F) 49 CFR Part 605 | |
| Does procurement exhibit Geographic Preference? For reference purposes: 49 CFR 18.36 (c)(1)(2) and FTA C 4220.1F, Ch. VI, Section 2.a (4)(g) | |
| Has proposed contracted entity been verified that they are not excluded or disqualified through the Excluded Parties List System (EPLS)? For reference purposes: https://www.sam.gov/portal/public/SAM/ | |
| Has an adequate number of sources been solicited? | |
| Has applicable ADA language been included? | |
| Has an adequate cost analysis been performed? For reference purposes: 49 CFR 18.36 (f)(1) and FTA C 4220.1F, Ch. VI, Section 6 | |

| | |
|---|--|
| Applicable Federal Clauses when procurement exceeds \$10,000 | Location of Requirement in Purchasing Package |
| <u>21. TERMINATION</u> 49 U.S.C. Part 18 FTA Circular 4220.1E or subsequent revisions | |
| Applicable Federal Clauses when procurement exceeds \$25,000 | Location of Requirement in Purchasing Package |
| 22. GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) | |
| Applicable Federal Clauses when procurement exceeds \$100,000 | Location of Requirement in Purchasing Package |
| <u>25. BREACHES AND DISPUTE RESOLUTION</u> 49 CFR Part 18 FTA Circular 4220.1E or subsequent revisions | |
| <u>10. LOBBYING</u> 31 U.S.C. 1352 49 CFR Part 19 49 CFR Part 20 | |
| <u>14. CLEAN AIR</u> 42 U.S.C. 7401 et seq 40 CFR 15.61 49 CFR Part 18 | |
| <u>7. CLEAN WATER REQUIREMENTS</u> 33 U.S.C. 1251 | |
| <u>17. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT</u> | |
| Applicable Federal Clauses when procurements involve foreign transport or travel by air | Location of Requirement in Purchasing Package |
| 5. <u>FLY AMERICA REQUIREMENTS</u> 49 U.S.C. § 40118 41 CFR Part 301-10 | |
| Applicable Federal Clauses – Transit Operations funded with Section 5307, 5309, 5311, or 5316 funds | Location of Requirement in Purchasing Package |
| <u>27. TRANSIT EMPLOYEE PROTECTIVE AGREEMENTS</u> 49 U.S.C. § 5310, § 5311, and § 5333 29 CFR Part 215 | |
| <u>31. DRUG AND ALCOHOL TESTING</u> 49 U.S.C. §5331 49 CFR Parts 653 and 654 | |
| Applicable Federal Clauses – Contracts for items designated by EPA, when procuring \$10,000 or more per year | Location of Requirement in Purchasing Package |
| <u>15. RECYCLED PRODUCTS</u> 42 U.S.C. 6962 40 CFR Part 247 Executive Order 12873 | |

Approval: _____
Subrecipient _____ Date: _____

Approval: _____
Florida Department of Transportation _____ Date: _____



GUIDE FOR ROLLING STOCK - CHECKLIST

| Applicable Federal Clauses Excluding micro-purchases, except for construction contracts over \$2,000 | Location of Requirement in Purchasing Package |
|--|--|
| <u>19. NO GOVERNMENT OBLIGATION TO THIRD PARTIES</u> | |
| <u>20. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS</u> 31 U.S.C. 3801 et seq. 49 CFR Part 31 18 U.S.C. 1001 49 U.S.C. 5307 | |
| <u>11. ACCESS TO RECORDS AND REPORTS</u> 49 U.S.C. 5325 18 CFR 18.36 (i) 49 CFR 633.17 | |
| <u>12. FEDERAL CHANGES</u> 49 CFR Part 18 | |
| <u>24. CIVIL RIGHTS REQUIREMENTS</u> 29 U.S.C. § 623, 42 U.S.C. § 2000 42 U.S.C. § 6102, 42 U.S.C. § 12112 42 U.S.C. § 12132, 49 U.S.C. § 5332 29 CFR Part 1630, 41 CFR Parts 60 et seq. | |
| <u>28. DISADVANTAGED BUSINESS ENTERPRISE (DBE)</u> 49 CFR Part 26 | |
| <u>30. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS</u> FTA Circular 4220.1E or subsequent revisions | |
| <u>6. ENERGY CONSERVATION REQUIREMENTS</u> 42 U.S.C. 6321 et seq. 49 CFR Part 18 | |
| <u>3. CHARTER BUS REQUIREMENTS</u> 49 U.S.C. 5323(d) 49 CFR Part 604 | |
| <u>3. SCHOOL BUS REQUIREMENTS</u> 49 U.S.C. 5323(F) 49 CFR Part 605 | |
| Does procurement exhibit Geographic Preference? For reference purposes: 49 CFR 18.36 (c)(1)(2) and FTA C 4220.1F, Ch. VI, Section 2.a (4)(g) | |
| Has proposed contracted entity been verified that they are not excluded or disqualified through the Excluded Parties List System (EPLS)? For reference purposes: https://www.sam.gov/portal/public/SAM/ | |
| Has an adequate number of sources been solicited? | |
| Has applicable ADA language been included? | |
| Has an adequate cost analysis been performed? For reference purposes: 49 CFR 18.36 (f)(1) and FTA C 4220.1F, Ch. VI, Section 6 | |
| Applicable Federal Clauses when procurement exceeds \$10,000 | Location of Requirement in Purchasing Package |

| | |
|--|--|
| <u>21. TERMINATION</u> 49 U.S.C. Part 18 FTA Circular 4220.1E or subsequent revisions | |
| Applicable Federal Clauses when procurement exceeds \$25,000 | Location of Requirement in Purchasing Package |
| <u>22. GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)</u> | |
| Applicable Federal Clauses when procurement exceeds \$100,000 | Location of Requirement in Purchasing Package |
| 2. <u>BUY AMERICA REQUIREMENTS</u> 49 U.S.C. 5323(j) 49 CFR Part 661 | |
| 9. <u>PRE-AWARD AND POST DELIVERY AUDITS REQUIREMENTS</u> 49 U.S.C. 5323 49 CFR Part 663 | |
| <u>25. BREACHES AND DISPUTE RESOLUTION</u> 49 CFR Part 18 FTA Circular 4220.1E or subsequent revisions | |
| <u>10. LOBBYING</u> 31 U.S.C. 1352 49 CFR Part 19 49 CFR Part 20 | |
| <u>14. CLEAN AIR</u> 42 U.S.C. 7401 et seq 40 CFR 15.61 49 CFR Part 18 | |
| <u>7. CLEAN WATER REQUIREMENTS</u> 33 U.S.C. 1251 | |
| <u>17. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT</u> | |
| Applicable Federal Clauses when procurements involve property that may be transported by ocean vessel | Location of Requirement in Purchasing Package |
| 4. <u>CARGO PREFERENCE REQUIREMENTS</u> 46 U.S.C. 1241 46 CFR Part 381 | |
| Applicable Federal Clauses when procurements involve foreign transport or travel by air | Location of Requirement in Purchasing Package |
| 8. <u>FLY AMERICA REQUIREMENTS</u> 49 U.S.C. § 40118 41 CFR Part 301-10 | |

Approval:
Subrecipient

Date: _____

Approval:
Florida Department of Transportation

Date: _____



GUIDE FOR CONSTRUCTION – CHECKLIST

| Applicable Federal Clauses Excluding micro-purchases, except for construction contracts over \$2,000 | Location of Requirement in Purchasing Package |
|--|--|
| 19. NO GOVERNMENT OBLIGATION TO THIRD PARTIES | |
| 20. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS 31 U.S.C. 3801 et seq. 49 CFR Part 31 18 U.S.C. 1001 49 U.S.C. 5307 | |
| 11. ACCESS TO RECORDS AND REPORTS 49 U.S.C. 5325 18 CFR 18.36 (i) 49 CFR 633.17 | |
| 12. FEDERAL CHANGES 49 CFR Part 18 | |
| 24. CIVIL RIGHTS REQUIREMENTS 29 U.S.C. § 623, 42 U.S.C. § 2000 42 U.S.C. § 6102, 42 U.S.C. § 12112 42 U.S.C. § 12132, 49 U.S.C. § 5332 29 CFR Part 1630, 41 CFR Parts 60 et seq. | |
| 28. DISADVANTAGED BUSINESS ENTERPRISE (DBE) 49 CFR Part 26 | |
| 30. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS FTA Circular 4220.1E or subsequent revisions | |
| 6. ENERGY CONSERVATION REQUIREMENTS 42 U.S.C. 6321 et seq. 49 CFR Part 18 | |
| Does procurement exhibit Geographic Preference? For reference purposes: 49 CFR 18.36 (c)(1)(2) and FTA C 4220.1F, Ch. VI, Section 2.a (4)(g) | |
| Has proposed contracted entity been verified that they are not excluded or disqualified through the Excluded Parties List System (EPLS)? For reference purposes: https://www.sam.gov/portal/public/SAM/ | |
| Has an adequate number of sources been solicited? | |
| Has applicable ADA language been included? | |
| Has an adequate cost analysis been performed? For reference purposes: 49 CFR 18.36 (f)(1) and FTA C 4220.1F, Ch. VI, Section 6 | |
| Applicable Federal Clauses when procurement exceeds \$10,000 | Location of Requirement in Purchasing Package |
| 21. TERMINATION 49 U.S.C. Part 18 FTA Circular 4220.1E or subsequent revisions | |
| Applicable Federal Clauses when procurement exceeds \$25,000 | Location of Requirement in Purchasing Package |

| | |
|---|--|
| 22. GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) | |
| Applicable Federal Clauses when procurement exceeds \$100,000 | Location of Requirement in Purchasing Package |
| 2. BUY AMERICA REQUIREMENTS 49 U.S.C. 5323(j) 49 CFR Part 661 | |
| 25. BREACHES AND DISPUTE RESOLUTION 49 CFR Part 18 FTA Circular 4220.1E or subsequent revisions | |
| 10. LOBBYING 31 U.S.C. 1352 49 CFR Part 19 49 CFR Part 20 | |
| 14. CLEAN AIR 42 U.S.C. 7401 et seq 40 CFR 15.61 49 CFR Part 18 | |
| 7. CLEAN WATER REQUIREMENTS 33 U.S.C. 1251 | |
| 13. BONDING REQUIREMENTS | |
| 16. DAVIS-BACON AND COPELAND ANTI-KICKBACK ACTS | |
| 17. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT | |
| Applicable Federal Clauses when procurements involve property that may be transported by ocean vessel | Location of Requirement in Purchasing Package |
| 4. CARGO PREFERENCE REQUIREMENTS 46 U.S.C. 1241 46 CFR Part 381 | |
| Applicable Federal Clauses when procurements involve foreign transport or travel by air | Location of Requirement in Purchasing Package |
| 11. FLY AMERICA REQUIREMENTS 49 U.S.C. § 40118 41 CFR Part 301-10 | |
| Applicable Federal Clauses – New Buildings and Additions | Location of Requirement in Purchasing Package |
| 5. SEISMIC SAFETY REQUIREMENTS 42 U.S.C. 7701 et seq. 49 CFR Part 41 | |
| Applicable Federal Clauses – Contracts for items designated by EPA, when procuring \$10,000 or more per year | Location of Requirement in Purchasing Package |
| 15. RECYCLED PRODUCTS 42 U.S.C. 6962 40 CFR Part 247 Executive Order 12873 | |

Approval: Subrecipient _____ Date: _____

Approval: Florida Department of Transportation _____ Date: _____



GUIDE FOR MATERIALS AND SUPPLIES - CHECKLIST

| Applicable Federal Clauses Excluding micro-purchases, except for construction contracts over \$2,000 | Location of Requirement in Purchasing Package |
|--|--|
| <u>19. NO GOVERNMENT OBLIGATION TO THIRD PARTIES</u> | |
| <u>20. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS</u> 31 U.S.C. 3801 et seq. 49 CFR Part 31 18 U.S.C. 1001 49 U.S.C. 5307 | |
| <u>11. ACCESS TO RECORDS AND REPORTS</u> 49 U.S.C. 5325 18 CFR 18.36 (i) 49 CFR 633.17 | |
| <u>12. FEDERAL CHANGES</u> 49 CFR Part 18 | |
| <u>24. CIVIL RIGHTS REQUIREMENTS</u> 29 U.S.C. § 623, 42 U.S.C. § 2000 42 U.S.C. § 6102, 42 U.S.C. § 12112 42 U.S.C. § 12132, 49 U.S.C. § 5332 29 CFR Part 1630, 41 CFR Parts 60 et seq. | |
| <u>28. DISADVANTAGED BUSINESS ENTERPRISE (DBE)</u> 49 CFR Part 26 | |
| <u>30. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS</u> FTA Circular 4220.1E or subsequent revisions | |
| <u>6. ENERGY CONSERVATION REQUIREMENTS</u> 42 U.S.C. 6321 et seq. 49 CFR Part 18 | |
| Does procurement exhibit Geographic Preference? For reference purposes: 49 CFR 18.36 (c)(1)(2) and FTA C 4220.1F, Ch. VI, Section 2.a (4)(g) | |
| Has proposed contracted entity been verified that they are not excluded or disqualified through the Excluded Parties List System (EPLS)? For reference purposes: https://www.sam.gov/portal/public/SAM/ | |
| Has an adequate number of sources been solicited? | |
| Has applicable ADA language been included? | |
| Has an adequate cost analysis been performed? For reference purposes: 49 CFR 18.36 (f)(1) and FTA C 4220.1F, Ch. VI, Section 6 | |
| Applicable Federal Clauses when procurement exceeds \$10,000 | Location of Requirement in Purchasing Package |
| <u>21. TERMINATION</u> 49 U.S.C. Part 18 FTA Circular 4220.1E or subsequent revisions | |

| | |
|---|--|
| Applicable Federal Clauses when procurement exceeds \$25,000 | Location of Requirement in Purchasing Package |
| 22. GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) | |
| Applicable Federal Clauses when procurement exceeds \$100,000 | Location of Requirement in Purchasing Package |
| 2. <u>BUY AMERICA REQUIREMENTS</u> 49 U.S.C. 5323(j) 49 CFR Part 661 | |
| 25. <u>BREACHES AND DISPUTE RESOLUTION</u> 49 CFR Part 18 FTA Circular 4220.1E or subsequent revisions | |
| 10. <u>LOBBYING</u> 31 U.S.C. 1352 49 CFR Part 19 49 CFR Part 20 | |
| 14. <u>CLEAN AIR</u> 42 U.S.C. 7401 et seq 40 CFR 15.61 49 CFR Part 18 | |
| 7. <u>CLEAN WATER REQUIREMENTS</u> 33 U.S.C. 1251 | |
| Applicable Federal Clauses when procurements involve property that may be transported by ocean vessel | Location of Requirement in Purchasing Package |
| 4. <u>CARGO PREFERENCE REQUIREMENTS</u> 46 U.S.C. 1241 46 CFR Part 381 | |
| Applicable Federal Clauses when procurements involve foreign transport or travel by air | Location of Requirement in Purchasing Package |
| 14. <u>FLY AMERICA REQUIREMENTS</u> 49 U.S.C. § 40118 41 CFR Part 301-10 | |
| Applicable Federal Clauses – Contracts for items designated by EPA, when procuring \$10,000 or more per year | Location of Requirement in Purchasing Package |
| 15. <u>RECYCLED PRODUCTS</u> 42 U.S.C. 6962 40 CFR Part 247 Executive Order 12873 | |

Approval:
Subrecipient

Date: _____

Approval:
Florida Department of Transportation

Date: _____



FLORIDA DEPARTMENT OF TRANSPORTATION SAMPLE PARAGRAPH FOR SMALL PURCHASES

(Date)

To: Joe's Auto Shop
From: BBB Transit Agency
Subject: Acceptance of Federal Clauses

This purchase shall conform in all respects to the Federal Transit Administration's Federally Required and Other Model Clauses including but not limited to: No government obligation to third parties; Program fraud and false or fraudulent statements and related acts, 31 U.S.C. 3801 et seq., 49 CFR part 31 18 U.S.C. 1001, 49 U.S.C. 5307; Access to records and reports, 49 U.S.C. 5325, 18 CFR 18.36 (i), 49 CFR 633.17; Federal changes, 49 CFR part 18; Disadvantaged Business Enterprise (DBE), 49 CFR part 26; Termination, 49 U.S.C. part 18 FTA circular 4220.1F.

Please note that this letter is intended to only be an example. The actual federal clauses to be listed may change as they must be based on the specific type and amount of the procurement. Other information may need to be modified or added to this letter as appropriate.

Date: _____

Signature: _____

Company Name: _____

Title: _____

Appendix B: Procurement Policy Guide

[Agency Name]

Procurement and Purchasing Policy

This guide is intended to assist sub-recipients in developing policies and procedures for procurements and purchases using Federal Section 5310, 5311 and 5309 and State funds. The procurement and purchasing policy submitted to the FDOT District Grant Manager should reflect the sub-recipient's specific internal policies and procedures.

GRADUATED PURCHASING AUTHORITY

<<Authorization thresholds are at the discretion of the agency>>

Staff shall acquire authorization for purchases in accordance with the following:

- Petty cash (under \$100): General Manager/Director or a GM/Director-authorized staff member or senior secretary
- Products and services with a cost less than \$2,500: General Manager/Director or GM/Director-authorized staff member
- Products and services with cost between \$2,500 and \$35,000: General Manager/Director
- Products and services costing more than \$50,000: The Board of Trustees

PURCHASE PROCEDURES FOR FEDERAL (SECTION 5310, 5311, and 5339) AND STATE FUNDS BY THRESHOLD

<<Listed according to FDOT thresholds and FTA regulations; agency may select lower price thresholds. Agency is encouraged to elaborate on the procedures used by threshold>>

[Agency] shall purchase products and services in accordance with the following:

- Micro Purchases – Procurements less than or equal to \$2,500:
 - Equitably distribute among qualified suppliers.
 - Document that the purchase was “fair and reasonable” with a description of how this determination was made
- Small Purchases – Procurements greater than \$2,500 but less than \$35,000:
 - Perform a price or cost analysis.
 - Avoid unreasonable qualifications, specifying brand, and geographic preference.
 - Obtain documented price or rate quotations from an adequate number of qualified sources.
 - Perform a cost or price analysis.
- Large Procurements –Procurements \$35,000 or more:
 - Formal bid process adhering to all FTA procurement requirements

APPEAL AND PROTEST PROCEDURES

Any bidder, vendor, or contractor who is aggrieved in connection with the solicitation or award of a bid or contracted products and services may file an appeal with [Agency]. Bidders or contractors may submit an appeal of an award to the General Manager/Director in accordance with the following procedure:

1. Bidder or contractor shall submit an appeal no later than five (5) business days after notification of the bid award. Such appeals must be received by the Director no later than 5:00 p.m. within five (5) days of notice of award postmark date.
2. All appeals must be in writing and signed by the bidder or an authorized agent of the bidder.
3. The appeal shall include the name and address of the bidder or contractor.
4. The appeal shall include a detailed description of the facts and disagreement that form the basis of the bidder/vendor/contractor's appeal and supporting documentation and the specific decision requested. The bidder or contractor shall also promptly provide any additional documentation related to the appeal upon request from the General Manager/Director.
5. The General Manager/Director (or authorized representative of [Agency]) will provide the allegedly aggrieved bidder or contractor with a written decision within five (5) business days after receipt of the appeal. Decision by the General Manager/Director of [Agency] is final. If additional time is mutually agreed on, the General Manager/Director shall notify the bidder or contractor of any delay.
6. Failure to comply with the appeal procedure shall render an appeal untimely or inadequate and result in rejection by [Agency].

In the case of FDOT-grant funded operation, the vendor may further file a protest of the decision that resulted in the appeal process to FDOT. The protest to FDOT shall include a detailed description of the facts and disagreement that form the basis of the bidder's or contractor's protest and supporting documentation and the specific decision requested.

<<Some agencies choose to incorporate their required ethics policy here. Many keep their ethics policy as a separate, stand-alone document, which complements the procurement policy.>>

Appendix C: Micro Purchase Documentation Form

Section 1: Sub-Recipient Information

Agency: _____ Contact: _____
 Phone: _____ Email: _____
 Address: _____ City: _____
 ZIP Code: _____ County: _____

Section 2: Micro Purchase Procurement Documentation

I hereby determine the price quoted by _____ (supplier name) for the purchase of this item to be fair and reasonable based on the following:

Check all that apply:

- _____ Comparison of and based on current quotes received for the same or similar item (complete the matrix below).
- _____ Comparison of proposed pricing with pricing from recent purchases of the same or similar item, adjusted by the pertinent Consumer or Producer Price Index or Inflation Rate over the corresponding time period, if appropriate. This includes the same or similar items found on existing state or municipal contracts (identify contract pricing sources and attach supporting documentation).
- _____ Comparison of price components against current industry standards, such as labor rates, dollars per pound, dollars per square foot, etc., to justify the price reasonableness of the whole (attach the analysis which supports the conclusions drawn).
- _____ Comparison with published catalog prices or price lists, commercially-advertised sales prices, or prices obtained through other market research (e.g., internet-based, trade journals, etc.) for the same or similar item commercially available from competing suppliers (complete the matrix below and attach supporting quotes, catalog pages, price lists, advertisements, etc.).
- _____ Comparison of proposed pricing with an in-house price analysis for the same or similar item (complete the matrix below, attach the signed in-house estimate, and explain factors influencing any differences found).
- _____ The quoted price is from a regulated utility (identify the utility in the “Comments” section below).
- _____ Other (e.g., verifiable sales information for the same or similar items sold to the supplier’s other customers (discuss in the “Comments” section below and attach supplier’s sales information).

SUMMARY MATRIX

| Item | Proposed Pricing | Average Market Price | Competitor A | Competitor B | In-House Estimate | Other |
|------|------------------|----------------------|--------------|--------------|-------------------|-------|
| | | | | | | |
| | | | | | | |
| | | | | | | |

(Turn page over for additional information)

Reason for Selection:

The price is fair and reasonable because:

Equitable Distribution & Fair and Reasonable Price Determination:

I, _____ certify that _____ (agency name) distributed this micro purchase equitably among qualified and supplies where geographically reasonable as required by FTA Circular 4220.1F Chapter VI, 3.a(1), (2).

No Cost/Bid Splitting:

I, _____ certify that _____ (agency name) did not reduce the size of this procurement merely to come within the micro purchase limit as required by FTA Circular 4220.1F Chapter VI, 3.a(2)(b).

Federal Clauses:

This procurement is a construction contract? Yes No

If yes, has documentation been provided that the purchase order or contract references the appropriate Federal clauses? Yes No

Section 3: FDOT Internal Use Only

Form completed and signed? Yes No

Price within micro purchase limits? Yes No

Independent cost analysis attached? Yes No

Additional information needed for micro purchase approval? Yes No

If yes describe: _____

Approved by: _____ Date: _____

Appendix D: Small Purchase Documentation Form

Section 1: Sub-recipient Information

Agency: _____ Contact: _____
 Phone: _____ Email: _____
 Address: _____ City: _____
 ZIP Code: _____ County: _____

Section 2: Results of Small Purchase Competitive Bid Process

I, _____ certify that price or rate quotations were received from (# of) _____ sources for the purchase as summarized below. If a sole source justification is being sought, see additional documentation required below in lieu of obtaining at least three price or rate questions.

Following completion of the procurement process, _____ (agency name) intends to award this procurement to _____ (supplier).

SUMMARY MATRIX OF COMPETITIVE BID RESULTS

| Item | Price/Cost Analysis Findings | Competitive Bid #1 | Competitive Bid #2 | Competitive Bid #3 |
|------|------------------------------|--------------------|--------------------|--------------------|
| | | | | |
| | | | | |
| | | | | |
| | | | | |

No Cost/Bid Splitting:

I, _____ certify that _____ (agency name) did not reduce the size of procurement merely to come within the small purchase limit as required by FTA Circular 4220.1F Chapter VI, 3.b(2)(b).

Required Documentation:

The following documentation must be provided for a small purchase:

- > Federal clause checklist to document that the purchase order or contract reference the appropriate Federal clauses) ____ Yes ____ No
- > Price analysis ____ Yes ____ No
- > Cost analysis ____ Yes ____ No (required in lieu of a price analysis if a single bid was received or procurement is being sought after a single source purchase)
- > Sole source justification form (if applicable)

(Turn page over for additional information)

Section 3: FDOT Internal Use Only

Form completed and signed? Yes No

Price within small purchase limits? Yes No

Required documentation attached? Yes No

If no, indicate what document is missing: _____

Additional information needed for small purchase approval? Yes No

Approved Sub-recipient Internal Procurement Policy Document on file? Yes No

Additional comments:

Approved by: _____ Date: _____

Appendix E: Small Purchase Sole Source Justification Form

Section 1: Sub-Recipient Information

| | | |
|----------------------------|-------------------------------|--------------------------|
| Name of Agency | Item Description/Project Name | Delivery/Completion Date |
| Name/Signature of Preparer | Total Estimated Price/Cost | Date of Estimate |

Section 2: Sole Source Justification

Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under small purchase procedures and at least one of the following circumstances applies:

| | |
|--------------------------|--|
| Item Description: | |
|--------------------------|--|

I, _____ certify that the reason, as noted below, for seeking a sole source justification for this procurement is accurate.

Check One:

- The item is available only from a single source (sole source justification is attached or described below in the "Comments" section).
- The public urgent need or emergency for the requirement will not permit a delay resulting from competitive solicitation (documented emergency condition is attached).
- FTA authorizes noncompetitive negotiations (letter of authorization is attached).
- After soliciting a number of sources, competition is determined inadequate (record of the sources solicited is attached).

| | |
|---|---|
| Recommend Source: | |
| Price or Cost Analysis attached? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Comments: | |

FDOT Internal Use Only

Approved by: _____ Date: _____

Appendix F: Small Purchase Price Analysis

Section 1: Sub-Recipient Information

| | | |
|----------------------------|-------------------------------|--------------------------|
| Name of Agency | Item Description/Project Name | Delivery/Completion Date |
| Name/Signature of Preparer | Total Estimated Price/Cost | Date of Estimate |

Section 2: Price Analysis Details

Method. The above estimate has been developed as follows (check all that apply):

____ Published catalog or Internet price list (attach pertinent catalog or price list pages).

____ Recent prices for the same or similar item/service (identify contracts, purchase orders, sources, and additional helpful information (e.g. dates of award), and attach any pertinent documents):

____ In-house engineering or technical estimate (provide as cost analysis below).

____ Independent Third Party estimate developed by _____ (attach the estimate).

____ Other _____

If appropriate, the estimates/prices herein have been made current by adjusting for inflation using the following Producer or Consumer Price Index: _____

Appendix G: Procurement FAQs



Local Agency Procurement Manual for Section 5310, 5311 & 5339 Program Sub-Recipients

Frequently Asked Questions (FAQs)

This document contains a list of Frequently Asked Questions (FAQs) pertaining to procurement of goods or services funded with Section 5310, 5311, and 5339 formula grants. This list will be continuously updated as further information becomes available and as procurement trainings throughout Florida are held. The complete list of FAQs will be posted as a resource upon completion of the trainings. If you have any questions or would like to add to the FAQ list, please contact one of the following individuals listed under the Contact Information section at the end of this document.

Frequently Asked Questions

Florida Department of Transportation (FDOT) Procurement Manual Resource

Q: Where can I find a link to FDOT's *Procurement Guidance for Transit Agencies Handbook*?

A: https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/transit/documents/procurement-guidance-combined.pdf?sfvrsn=df784b3c_2

Q: How do I check to see whether a potential vendor/contractor has been disbarred (or suspended), and how can I verify whether they are an approved DBE?

A: The FDOT and Florida Department of Management Services (DMS) have listings available online. If needed, go to FDOT Procurement Office website or the Florida DMS Division of State Purchasing website. Many counties and some cities also maintain DBE lists as well, but when looking, they may be certified differently such as WBE (Women-owned) OR MBE (Minority-owned).

Determining Procurement Level/Avoiding "Bid-Splitting"

Q: How do you decide what procurement level to use if the allocated funds are greater than \$2,500, but the purchases are done separately throughout the year? Do you use the total allocated amount or time of purchase amount?

A: Here are two examples for answering this scenario:

- Example #1: If you are purchasing tires and the total cost for the year is \$10,000 even though purchases are completed throughout the year, you should complete the small purchase process and obtain quotes and have the applicable federal clauses accepted. You could create an agreement with the tire company that would cover you for the year.
- Example #2: if you are purchasing office supplies and the total cost for the year is \$10,000 and the purchases are completed throughout the year and may or may not include some of the same items, these would be considered individual purchases. In this case you would follow the guidance for each purchase, whether it is under the micro purchase or small purchase limit.



Q: If you go to a repair shop for a single oil change, does this count as “bid-splitting” or breaking up the purchase?

A: It depends on how you manage the contracts. For agencies that do fewer services, maybe 1-2 every month or less often, it makes sense to purchase each service as needed. However, for these you still need to follow micro purchase guidelines and get a fair and reasonable price for each. It is likely more advantageous cost-wise when doing frequent service with shop(s) to do a contract under small or competitive bid, as appropriate.

Q: When purchasing gasoline/fuel, what is the latitude for that in the context of breaking up purchases?

A: Fuel is regulated so you can go just about anywhere and buy gas. If you want bulk purchase discounts, then consider which procurement level/method you would need to use based on fuel needed and price. If you buy off a state or other government contract, then you must make sure federal assurances are followed.

Q: For smaller and general materials and supplies we use and need on a daily basis, how should we determine when the procurement rules apply?

A: The simple answer is to follow the money. Anytime you pursue or require reimbursement from federal or state funding, then the rules or regulations apply. Another thought would be to follow the rules, or practice the procedures consistently in all procurements, so that if you secure and want reimbursement from federal or state sources you are eligible.

Procurement Process for Insurance, Brokers, Surcharge Costs

Q: What would constitute the need to competitively procure services provided by a broker (e.g., insurance, fuel, etc.)?

A: When the agency is paying separately for the brokered services with federal or state funding, then procurement guidelines based on the appropriate procurement level should be followed for the additional brokered costs. Otherwise, the brokered costs should be considered in the original procurement. For example, if a fuel broker is paid via the fuel provider, no separate procurement process for the fuel broker is needed provided those costs were originally included in the procurement process used to select the fuel provider. However, if the fuel broker fees are a separate cost not included in the original procurement or charged by a different vendor, then the appropriate method to procure the broker’s services should be undertaken by the agency.

Q: Does the renewal of insurance policies for the transit agency, such as worker's compensation or liability coverage fall under procurement guidelines? Are we required to have our broker approach the insurance market every year for quotes or can we ask them to approach carriers about our account to determine if there is a lower cost than our incumbent carrier?

A: Procurement of insurance that is financed with FTA grant funds (e.g., an operating grant) would be covered by FTA Circular 4220.1F. If, however, the agency pays for the insurance entirely out of its own funds, then procurement guidelines under Circular 4220.1F would not apply. Circular 4220.1F requires that you award the insurance contracts competitively, but the length of these contracts is up to your good business judgment as to how long it is prudent to continue before requesting quotes from



different carriers. That may be one year, or it may be some longer period. Your insurance broker could advise you on this issue.¹

Q: If the transit agency's (a recipient of FTA funds) insurance broker is procured through a competitive RFP process, is that broker required to solicit specific insurance plans and costs from insurance carriers through yet another formal RFP process?

A: All contracts awarded with FTA funds must comply with FTA Circular 4220.1F, which is available online. The short answer is that the solicitation (RFP) and resulting contract must comply in all respects with the FTA procurement requirements even though a broker is involved. The RFP is really your agency's RFP regardless of who prepares it.²

Q: Insurance can be a complicated and if an agency uses an insurance agent to help with this process does the agency need to get quotes each year for the insurance agent? Is the process different for an insurance broker if your agency is not the entity paying the broker?

A: As with fuel broker services mentioned above, if you hire and pay the broker directly for that service, then yes, the appropriate procurement method is required. If the broker's fees are included through the insurance company's payments, then a separate procurement process for the broker is probably not required. In most cases where a broker or agent is involved, a simple test to help determine the procurement requirements is to follow who gets the dollars from the sub-recipient/agency.

Federal Clauses

Q: Does FDOT's contract with First Lab for drug and alcohol testing and other services have the applicable federal clauses?

A: Not currently. However, FDOT is working with First Lab to have these added so all agencies using First Lab will comply.

Q: What are the options or steps if a vendor/contractor will not accept the applicable federal clauses for the procurement level?

A: The applicable federal clauses must be accepted from any vendor/contractor you purchase from. This may involve an extensive search until one is found. If you cannot find a vendor/contractor to accept the federal clauses, you may need to use another funding source for this amount. Getting potential vendors to agree to the various stipulations, including the required federal clauses, may be difficult. Having a pre-bid discussion with the vendor to explain the required federal clauses and other stipulations may help this process. FDOT's Public Transit Office is also looking into developing a statewide bid for maintenance services, but first must address how to make it competitive for small businesses and be useful to agencies throughout Florida.

Regarding insurance companies accepting federal clauses, FDOT will investigate this further and will survey the state to see how and who agencies are acquiring insurance from and what companies are accepting federal clauses. We will provide feedback from this survey to the Districts.

¹Source: <https://www.transit.dot.gov/funding/procurement/third-party-procurement/procurement-insurance>

² See 1



Regarding workers compensation companies accepting federal clauses, FDOT will investigate this further. It appears that there are not very many companies offering worker's compensation and those that do are not willing to accept the applicable federal clauses. This link is from FTA's FAQ's:

<https://www.transit.dot.gov/funding/procurement/third-party-procurement/insurance-requirements>.

This partially answers the question, but does not address what happens when the insurance company will not accept the federal clauses. FDOT will research this further to provide additional guidance.

For vehicle maintenance and other operating services that smaller transit agencies procure, it can be difficult working with locally owned providers and shops to get them to understand and agree to accept the numerous federal clauses and stipulations. Like insurance, FDOT is considering options for vehicle maintenance services that could include the creation of a statewide procurement process for local agencies to access. However, currently local agencies will need to negotiate and work with vendors on incorporating the federal clauses in contracts and complying with their stipulations. Note many companies have never been approached on these issues before and how presented may make the difference. Most of their effort is in documentation, not major changes to the way they do business. Being aware of the requirements and being able to explain their impacts can help in negotiations.

Q: If a vendor is procured to operate services then uses subcontractors to help provide some or all the contracted services, do the subcontractors have to follow the same federal and state clauses and procurement rules/regulations?

A: Yes, the requirements follow the funding and all third-party contracts. Note that some of the thresholds could change and the effort or methodology may be in a lower category. Here is an example: an agency enters into a \$150,000 transit operations/maintenance service contract selected through the Competitive Bid method. Then the contractor uses subcontractors performing vehicle maintenance services, and one of the subcontractors will only receive about \$7,000. While the main contract was procured via a Competitive Bid, the maintenance subcontractor can be selected via the requirements of a Small Purchase method.

Q: Does the federal Buy America requirements apply for vehicles purchased off the DMS contract?

A: Yes, when using federal funding, the requirements are applicable. However, vehicles available under the DMS state contract are not required as part of that procurement to follow federal regulations, specifically the FTA application for transit systems. Therefore, before vehicles can be purchased off the DMS contract, the procuring agency must determine compliance on their own. When considering to purchase from this avenue, one of two things can be done. One is to contact the TRIPS program manager and ask them if they can help get proper assurances and the pre- and post-delivery audits for Buy America from the vendor you want to buy from. Or, you can contact the vendor and get them to agree, sign, and comply with the federal FTA assurances yourself, including the pre- and post-delivery

Grant Application and Cost Estimating Support

Q: Can FDOT Districts assist with putting together the applications and cost estimates of agencies requesting FTA funding?

A: This would not be very practical, as there are so many grant applications. District staff can invite agencies to share their draft findings and proposals so they can review and advise as needed. Also, if an agency is a first-time recipient, FDOT District staff should check with them regularly to monitor their



progress. Lastly, the District can also probably supply some historical data from previous grants that could be used as reference materials for assisting in the cost estimating process. This support will need to be determined on a District-by-District basis. Note that on vehicle purchases, the TRIPS program is a ready source for cost estimation and other relative information for grant preparation.

Q: How can an agency ensure that the price quotes required for a micro purchase are fair and equitable? There is concern that some agencies may be able to manipulate the quotes to favor their preferred supplier.

A: It is the responsibility of the agency to provide adequate documentation of the three (minimum) price quotes and reasoning for selection of the preferred vendor. District staff that review and approve invoices for these purchases must make a call when they get the procurement documentation. District staff will look out for unusual patterns in selection history (e.g., the same vendor is routinely selected even if price is not the lowest for different supplies/materials) or documentation that may warrant a request for additional information. Plus they have similar purchases by other grant recipients to rely on as a resource for assisting in their review. Lastly, if questionable, reviewers may do some of the same research as the local agencies would do, on-line or via telephone, to test for fair and equitable practices or decisions.

Vendor Geographical Preference

Q: How can agencies ensure they do not have to purchase services (like vehicle maintenance) from vendors that are in different cities or many miles away? Can an agency include a local preference in selecting a vendor/contractor?

A: For Architectural & Engineering (A&E) services, specifying local preference in a RFP or competitive bid package is allowed, but with certain limitations. However, for other services this is not allowed. An alternative way to assist in this effort is to include certain "fair and reasonable" performance standards in your specifications or bid scope can help. Items like towing a vehicle when it breaks down within 60 minutes of notice, or preventative maintenance scheduling that requires a vehicle be out of service for no more than certain amount of time (e.g., one day, or 6 hours) could limit the distance of the bidder's location. Other performance standards could help address this as well, but generally a reasonableness test needs to apply. For example, if you are located in Orlando, you do not have to accept a low bid from Tampa, unless they make arrangements to have local resources or sub vendors to ensure you are not waiting an unreasonable amount of time for vehicles being grounded to perform routine preventative maintenance. Additionally, procuring services off another approved contract may provide the opportunity to choose a vendor from a certain location. However, all federal requirements and assurances apply and compliance must be adhered to.

Bid Process

Q: Can an agency use a dealership/vehicle distributor for service, tires, etc. and not have to seek a bid?

A: Only if this service was included in the original bid, included under a piggy-back contract with another agency (if approved), or determined to be an appropriate sole source award.

Q: Can an agency contract with the County or Community Transportation Coordinator (CTC) for maintenance without going through the required bid process?



A: Those agencies (County or non-profit CTC) can contract directly with the County or non-profit CTC, or the County or CTC can submit a bid along with for profits to win the services, as long it is fair and reasonable. If an agency puts out a bid and gets no responses, then they can do sole source with the County or CTC (non-profit) and evaluate it for reasonableness.

Q: Can a sole source contract be awarded to a non-profit (501c-3) if that was the only proposal submitted?

Grantees have the authority to make sole source subcontract awards under certain conditions as discussed in FTA Circular 4220.1F, Chapter VI, pages VI-16 through 20, which is available online. The status of the subcontractor as a 501(c)(3) would not in itself justify a sole source award. If your agency has a need that this non-profit organization can fill, FTA recommends that you advertise the need and request information (not necessarily proposals) from sources that feel they can meet that need. If in fact no firms come forward, you can then proceed with the sole source award based on your research of the market demonstrating that no other organization can meet the need. If other firms do come forward, then you can solicit proposals from all interested firms and evaluate which one best meets your need.

Q: Are there maintenance implications from the manufacturer's warrantee that should be included in the bid or award contracts?

A: Not specified by FTA guidance, but a statement should be included in the bid that the maintenance should not alter the equipment or equipment unless specifically discussed.

Impact of Using State Toll Credits on Procurement Processes

Q: Are federal or state procurement requirements impacted when using State Toll Fee Credits as match towards capital purchases made with Section 5339 funds?

A: Title 23 U.S.C. 120(j)(1) permits states to substitute certain previous toll-financed investments for state matching funds on current federal-aid projects, allowing the non-federal share of a project's cost to be met through a "soft match" of toll credits. By using toll credits to substitute for the required nonfederal share on a new federal-aid project, the federal share can effectively be increased to 100%. Since toll credits serve as an effective match to federal funds, federal procurement rules apply.

Other Questions

Q: Does the E-Verify for employees requirement apply to micro-purchases?

A: It could if for staff services, construction, and some other things, but typically these are not micro, small or competitive. See the E-Verify website for specific direction.

Q: Are there methods or guidelines available to help streamline the process and not get bogged down in paperwork when purchasing multiple or recurring items that total more than \$2,500?

A: Here are several thoughts that may make sense to consider.

- Developing and using a multi-year contract for services or purchasing materials.
- The option of using master contracts, like the state contract from the Florida DMS, however, you must ensure compliance with federal assurances and regulations.



- “Piggybacking” on another government contract when specifically allowed through contract bidding and contract language.
- Pooling together several agencies and doing a joint bid.
- Developing and using standard templates, forms, and procedures can assist in streamlining the purchasing process, even on varying items.

Just remember all these options have benefits and potential weaknesses and need to be fully vetted before proceeding.

Q: Is there a threshold amount where components or parts move from an operating expense to a capital expense?

A: The current definition of what can be classified as capital for eligibility under the FTA capital program includes two parts. First, all components of capital items and ADA accessories are eligible at initial purchase. Secondly, associated capital maintenance items (e.g., equipment, tires, tubes, and material, etc.) each costing 0.5% or more of the current fair market value of the rolling stock that it supports or will be used are considered a capital expense. Refer to FTA Program Circular 9030.1E, for 5307 Urban Formula Funding, Chapter IV, Section 2(h).³

Q: For purchasing from the Center for Urban Transportation Research’s (CUTR) Substance Abuse Management System (SAMS) contract, what type of purchase is it and do we have to follow one of the procurement methods?

A: CUTR/FDOT address and manage procurement requirements for testing activities and sites approved under the SAMS contract, so signing the CUTR purchase order is all that is required to comply. This is comparable to purchasing vehicles under the TRIPS program.

Q: Does bonding on construction contracts (i.e., for multiple shelter pads) impact the procurement threshold?

A: Yes, if an agency requires bonding then it should be included as part of bid price. For example; if the bid is for 15 shelters pads estimated at \$2,000 each (or \$30,000 total), this amount falls within the small purchase range of \$2,500-\$35,000. However, if bonding is required and included in the cost being bid and the total cost then exceeds \$35,000, then the competitive purchase process would then apply.

Q: What is an appropriate length for contracts?

A: This should be discussed with the appropriate District Grant Program Manager.

Contact Information

Robert Westbrook
Florida Department of Transportation
(850) 414-4533
Robert.Westbrook@dot.state.fl.us

Erin Schepers
Florida Department of Transportation
(850) 414-4526
Erin.Schepers@dot.state.fl.us

³ https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/FINAL_FTA_circular9030.1E.pdf

Appendix H: Procurement Resource Guides

This appendix contains resource guides concerning the following:

- > Acquisition through Assigned Contract Rights or “Piggybacking”
- > Purchasing through the Florida Department of Management Services Contracts
- > Joint Procurements

Acquisition through Assigned Contract Rights or “Piggybacking”

Introduction

Federal Transit Administration (FTA) recipients and sub-recipients may find it useful to acquire contract options through assignment by another (sub)recipient. This practice also is known as “piggybacking.” FTA defines piggybacking as “the post-award use of a contractual document or process that allows someone who was not contemplated in the original procurement to purchase the same supplies or equipment through that original document or process.” Refer to FTA Piggybacking FAQs: <https://www.transit.dot.gov/funding/procurement/third-party-procurement/piggybacking>

Under FTA Rules, piggybacking can only occur when an agency with an existing good or service contract inadvertently contracted to purchase more than it needs. The purchasing agency may then assign the rights to purchase some or all its unneeded goods or services to other agencies. Agencies are not allowed to purposefully purchase more goods or services than needed with FTA funds, for the specific purpose of assigning contract rights to other transit agencies at a later date (Section 3.3.4, FTA Best Practices Procurement Manual, October 2016).

How-To

Small agencies often learn of these types of procurement through informal means, such as existing relationships with other transit agencies, industry conferences, or through representatives of bus manufacturers. Unfortunately, there is no formal mechanism to identify mutually beneficial opportunities for piggybacking. Opportunities for piggybacking are often written into a contract,

the language and stipulations of which vary between agencies and between contracts.

If your agency identifies an opportunity for piggybacking on another contract, you should request the original Request for Proposal (RFP) and review the contract in its entirety prior to executing a purchase order through the piggybacked contract. Your agency is responsible for ensuring that all relevant State and Federal purchasing guidelines are met. If required Federal requirements and clauses are not included, it is up to the agency using the existing contract to include them with the purchase order prior to completing the contract agreement.

Considerations and Challenges

A (sub)recipient that obtains contractual rights through assignment may use these rights after verifying and ensuring the following:

| | |
|---|---|
| Yes: <input type="checkbox"/> No: <input type="checkbox"/> | Is the original contract price still fair and reasonable? |
| Yes: <input type="checkbox"/> No: <input type="checkbox"/> | Does the original contract comply with all relevant federal and state requirements? |
| Yes: <input type="checkbox"/> No: <input type="checkbox"/> | Does the amount of goods or services being requested exceed the amounts available under the contract? |
| Yes: <input type="checkbox"/> No: <input type="checkbox"/> | Did the original assigning recipient procure reasonably large quantities of goods or services? |

Purchasing through the Florida Department of Management Services Contracts

Introduction

Under Section 3019 of the Fixing America's Surface Transportation (FAST) Act, grantees may purchase rolling stock and related equipment from a state cooperative procurement contract. The Federal Transit Administration (FTA) defines a "cooperative procurement contract" as a contract entered into between a state government or eligible nonprofit entities and one or more vendor(s) under which the vendor(s) agree to provide an option to purchase rolling stock and related equipment or goods to multiple participants."

The Florida Division of State Purchasing procures State contracts and agreements for commodities and services that are frequently used by multiple state agencies. Florida's state term contracts, referred to by FTA as a cooperative procurement contracts, are competitively procured by the Florida Division of State Purchasing for selected products and services for use by government agencies and eligible users. Pursuant to Rule 60A-1.001, Florida Administrative Code (F.A.C.), eligible users of state term contracts include:

- (a) United States government departments, commissions, agencies, and instrumentalities thereof, having a physical presence within the State of Florida;
- (b) The State's constitutional, judicial branch, and legislative branch entities, and instrumentalities thereof;
- (c) Instrumentalities of this State's executive branch agencies;

How To

Prior to your agency issuing a purchase order under a state contract, you should review the original Request for Proposal (RFP) and the contract in its entirety. Legal review is recommended, if feasible. Copies of contracts are available on the Department of Management Services (DMS) website and links are provided in the table below.

State cooperative purchasing contracts or state schedules are subject to federal requirements, including, but not limited to, full and open competition, no geographic preferences, Buy America, and bus testing, and must include all FTA required clauses and certifications. If required Federal requirements and clauses are not included in the state contract, it is up to your agency to include them with the first purchase order prior to completing the contract agreement. For a full list for required clauses for your agency's procurement, refer to FDOT's Local Agency Procurement Manual.

Florida agencies and eligible users may use a request for quote to obtain written pricing or services information from a state term contract vendor for commodities or service available.

Considerations and Challenges

If you are buying a product that is other than the lowest offered price for that product under all state contracts, you must document as to why the higher priced product must be purchased. You must also determine that the state contracts were awarded with full and open competition.

Current Contracts Available through Florida DMS

State Contracts and Agreements

The following is a list of available state contracts and agreements. This information is current as of September 30, 2019.

Refer to the following webpage for the full list of agreements:

https://www.dms.myflorida.com/business_operations/state_purchasing/state_contracts_and_agreements

| Contract Number | Items | Category | Administrator | Contract Link | Contract Expiration Date |
|--------------------------------|---|--------------------------------|----------------------|----------------------|--------------------------|
| 14111500-15-1 | Paper: Office, Virgin, and Recycled Content | Office Products and Equipment | Frank Miller | Link | 07/19/2021 |
| 14111700-17-01 | Disposable Paper | Facilities | Frank Miller | Link | 11/01/2022 |
| 25100000-18-1 | Motor Vehicles | Vehicles, Equipment, and Fleet | Christopher McMullen | Link | 11/16/2019 |
| 25172500-WSCA-15-ACS | Tires, Tubes, and Services | Vehicles, Equipment, and Fleet | Christopher McMullen | Link | 03/31/2024 |
| 252-GSA Schedule 70 | Information Technology Equipment, Software, and Services | IT Hardware and Software | GSA Concierge Team | Link | N/A |
| 3141800-14-ACS | Temporary Administrative and Light Industrial Staff | Staffing Services | Alexis Bryan | Link | 11/17/2019 |
| 973-163-10-1 | Fuel Card Services | Energy and Fuel | Christopher McMullen | Link | 8/05/2020 |
| 43190000-18-NASPO-ACS-1 | Public Safety Communication Equipment, Phase 1: Radios, Consoles, Antennas, and Repeaters | Telecommunications | Christopher McMullen | Link | 07/21/2020 |

Joint Procurements

Introduction

The Federal Transit Administration (FTA) defines a joint or cooperative procurement as, “A method of contracting in which two or more purchasers agree from the outset to use a single solicitation document and enter into a single contract with a vendor for delivery of property or services...”. Source: *FTA Best Practices Procurement & Lessons Learned Manual*, October 2016, pg. 7.

Joint procurements are conducted by a lead agency on behalf of itself and other agencies who wish to participate. Small agencies may particularly benefit from using joints procurement, especially if they do not have the resources needed to effectively conduct a major procurement. Small agencies can often receive the benefits of the lower prices and better rates that come with larger purchases when conducting a joint procurement.

How To

The parties to a joint procurement can agree to share responsibility for different portions of the process, e.g., one recipient may prepare the technical specification, and another prepares and conducts the solicitation process.

Like all solicitations, joint procurements should be tailored to specific quantities that the participants anticipate needing. FTA encourages joint procurements with a vendor or vendors for rolling stock or other goods and services in a fixed quantity, which may be expressed with both a total minimum and total maximum. Participants are cautioned to not inflate the maximum quantity of

vehicles so that other agencies may “piggyback” on the contract later (refer to Section 3.3.4 of FTA’s Best Practices Procurement Manual). Refer to the *Acquisition through Assigned Contract Rights or “Piggybacking”* Resource Sheet for a more detailed discussion of this.

One approach that has been used for joint bus procurements is for the lead agency to award the basic contract with pricing, specifications, terms and conditions, etc., and then to have the participating agencies issue individual purchase orders against the basic contract as funding becomes available during the life of the contract. The purchase orders would reflect the basic contract unit prices and reference the basic contract for other terms and conditions. The FDOT’s Transit Research Inspection Procurement Services (TRIPS) program is one such example of this (see: <http://www.tripsflorida.org/>).

To aid agencies in finding opportunities for joint procurement, FTA has established a Joint Procurement Clearinghouse available to FTA grantees designated access through the Transit Award Management System (TrAMS): <https://www.transit.dot.gov/funding/procurement/joint-procurement-clearinghouse>

Considerations and Challenges

Participating in a joint procurement does not relieve any participating agency from the requirements and responsibilities if it were procuring the goods or services itself. Agencies participating in a joint procurement should ensure all Federal and

State requirements for that procurement are met. A full discussion of these requirements can be found in FDOT’s Local Agency Handbook.

The Common Grant Rules and FTA encourage recipients to procure goods and services jointly with other recipients to obtain better pricing through larger purchases. Joint procurements offer the advantage of being able to obtain goods and services that may match each participating recipient’s requirements better than those likely to be available through individual procurements or an assignment of another recipient’s contract rights.

Joint procurements offer the advantage of obtaining goods and services that better meet the needs of each participating recipient than likely would be available from smaller procurements, particularly for smaller agencies. Joint procurements on behalf of several regional or state agencies should be a consideration in all rolling stock procurements. If economical and feasible, FTA also participates in the costs of joint procurements by non-governmental recipients.

The following is a list of factors and challenges to consider throughout the joint procurement process:

| | |
|-------------------------------------|--|
| Yes: ____ No: ____ | Do the parties want the same items(s)? |
| Yes: ____ No: ____ | Can the parties commit to specific quantities? |
| Yes: ____ No: ____ | Do all participants understand their roles and responsibilities throughout every stage of the procurement process? |
| Yes: ____ No: ____ | Does the original contract comply with all relevant Federal (FTA) and State (FDOT) requirements? |
| Yes: ____ No: ____ | Does the contract procure reasonably sized quantities of goods or services? |
| Yes: ____ No: ____ | Have all participating agencies taken part in the evaluation and selection process? |
| Yes: ____ No: ____ | If purchasers are awarding individual contracts, do those contracts reflect the terms and condition in the joint procurement competitive solicitation and proposal that was submitted by the winning contractor? |

For more information see: Common Grant Rule, 49 C.F.R. Part 18, and FTA Circular 4220.1F