

## Procurement Resource Guides

The following procurement resource guides have been prepared to provide information concerning the following topics:

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

These resource guides supplement the information provided in the Florida Department of Transportation’s (FDOT) *Local Agency Procurement Manual for 5310, 5311, and 5339 Program Sub-Recipients* dated September 30, 2019

## 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: ____ No: ____	Is the original contract price still fair and reasonable?
Yes: ____ No: ____	Does the original contract comply with all relevant federal and state requirements?
Yes: ____ No: ____	Does the amount of goods or services being requested exceed the amounts available under the contract?
Yes: ____ No: ____	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](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	<a href="#">Link</a>	07/19/2021
14111700-17-01	Disposable Paper	Facilities	Frank Miller	<a href="#">Link</a>	11/01/2022
25100000-18-1	Motor Vehicles	Vehicles, Equipment, and Fleet	Christopher McMullen	<a href="#">Link</a>	11/16/2019
25172500-WSCA-15-ACS	Tires, Tubes, and Services	Vehicles, Equipment, and Fleet	Christopher McMullen	<a href="#">Link</a>	03/31/2024
252-GSA Schedule 70	Information Technology Equipment, Software, and Services	IT Hardware and Software	GSA Concierge Team	<a href="#">Link</a>	N/A
3141800-14-ACS	Temporary Administrative and Light Industrial Staff	Staffing Services	Alexis Bryan	<a href="#">Link</a>	11/17/2019
973-163-10-1	Fuel Card Services	Energy and Fuel	Christopher McMullen	<a href="#">Link</a>	8/05/2020
43190000-18-NASPO-ACS-1	Public Safety Communication Equipment, Phase 1: Radios, Consoles, Antennas, and Repeaters	Telecommunications	Christopher McMullen	<a href="#">Link</a>	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:

<b>Yes:</b> ____ <b>No:</b> ____	Do the parties want the same items(s)?
<b>Yes:</b> ____ <b>No:</b> ____	Can the parties commit to specific quantities?
<b>Yes:</b> ____ <b>No:</b> ____	Do all participants understand their roles and responsibilities throughout every stage of the procurement process?
<b>Yes:</b> ____ <b>No:</b> ____	Does the original contract comply with all relevant Federal (FTA) and State (FDOT) requirements?
<b>Yes:</b> ____ <b>No:</b> ____	Does the contract procure reasonably sized quantities of goods or services?
<b>Yes:</b> ____ <b>No:</b> ____	Have all participating agencies taken part in the evaluation and selection process?
<b>Yes:</b> ____ <b>No:</b> ____	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