

TWIN CITIES AREA TRANSPORTATION  
AUTHORITY  
PROCUREMENT GUIDELINES

Board Approval Date \_\_\_\_\_

Chairman's Signature \_\_\_\_\_

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## **POLICY STATEMENT**

It is the intention of the Twin Cities Area Transportation Authority (TCATA) to procure necessary services, materials, supplies, equipment and other items in a fashion which affords for compliance with applicable Federal, State and local regulations standards. Further, TCATA requires that such procurement will be made in a manner that provides for the most economical expenditure of the limited funding available. To this end, these policies are intended to follow the standards of Federal Transit Administration (FTA) Circular 4220.1F, and applicable criteria in the FTA “Best Practices Procurement Manual”, common grant rule 49CFR part18, FTA Master Agreement, related circular, i.e.; 9030.1E, in all procurement.

The Michigan Department of Transportation (MDOT) has an active role in TCATA’s procurements that use Federal funds or State matching funds, including review of various procurement activities. MDOT, in conjunction with the Michigan Department of Technology, Management and Budget, establishes contracts for revenue vehicles that follow FTA procurement requirements and TCATA purchases its vehicles off this contract. A copy of the complete MDOT Procurement Guidelines can be found at: [https://www.michigan.gov/mdot/0,4616,7-151-9625\\_21607\\_86364---,00.html](https://www.michigan.gov/mdot/0,4616,7-151-9625_21607_86364---,00.html).

The state guidelines include a description of procurement requirements that follow the FTA Circular 4220.1F and variety of appendixes detailing steps for various methods of procurement and required contract clauses. A copy of the index to the procedures, appendixes, and other forms are on the last page of this document. When there is a conflict between FTA Circular 4220.1F and the Super Circular, the Super Circular supersedes C.4220.1F.

TCATA will maintain records and documents of all procurement history for three years after procurement is completed. Records of method of procurement, contract type, and reason for selection or rejection, basis of contract price are kept on all procurement. The size and complexity of the procurement will determine how much additional history is kept.

### **LEASE VS PURCHASE ANALYSIS**

TCATA will review lease versus purchase alternatives for acquiring property and, if necessary, will obtain an analysis to determine the more economical alternative to obtain the best value. We will follow the requirements in FTA Circular 4220.1F, Chapter IV, Section 1.e (pIV-3) and 5010.1D, Chapter IV, Section J, (p. IV-211). TCATA shall obtain FTA review of the cost-effectiveness determination prior to entering into any capital lease. TCATA will reference Circular A-94 for cost-effectiveness calculations and to obtain the most recent discount rate for the purpose of calculating the net present value of a future benefit. TCATA’S Lease vs Cost Certification is Appendix C.

## **ETHICAL CONDUCT**

TCATA's Executive Director will monitor the Ethical Conduct of the employees of the transit system. The Board of Directors will monitor the Executive Director.

**I.** TCATA will not allow employees, officers or agents engaged in the selection, award and administration of contract to participate in such selection, award or administration of a contract if a conflict of interest, real or apparent, would be involved. The following identifies where such a conflict may arise:

- (a) The employee, officer, or agent, or
- (b) Any member of his/her immediate family, or
- (c) His/her partner, or
- (d) An organization who employs, or is about to employ any of the above has a financial or other interest in a firm which may be selected for award.

**II.** TCATA will not allow its employees, officers or agents, or his or her immediate family member to solicit nor accept gratuities, favors, any organization that employ or is about to employ any of the foregoing from participating in the election, award, or administration of a contract supported with FTA assistance, or anything of monetary value from contractors, potential contractors, or parties to sub-agreements. Such acceptance of any of the above listed items shall be deemed a reason for disciplinary action up to, and including termination, as determined by the Authority's Board, the Federal Transit Administration, or the Michigan Department of Transportation, as well as possible legal sanctions as deemed appropriate under applicable statute.

**III.** TCATA will not allow its employees, officers or agents to engage in any activity which shall result in an unfair competitive advantage to any contractor's objectivity in performing contracted work.

## **BUY AMERICA**

TCATA will ensure all procurements of steel, iron, and manufactured product, except of those subject to a waiver, contain Buy America provisions. Waivers are listed in Appendix B to 49 CFR 661.7 and include microcomputers equipment and software and purchases under the simplified acquisition threshold (currently \$150,000). TCATA will not split product to achieve the threshold as the threshold is based on the value of the procurement, not the price of each item. Buy America Clause will be included in all procurement that qualifies for the clause.

Buying from the MDOT MIDEAL must also follow the Buy America regulations.

## **PRE-AWARD AND POST-DELIVERY**

A Pre-Award and Post-Delivery audit is performed when purchasing revenue service rolling stock even when using MDOT's MIDEAL. A copy of MDOT's third party contract for the revenue vehicle is kept in TCATA's file. When the revenue vehicle arrives at our facility a Post- Delivery audit is completed to ensure the bus meets the contract specifications. This consists of a mechanic making a visual inspection using a check list from MDOT and a road test. The bus is accepted when it's determined the bus meets the contract specifications.

## **ARCHITECTURAL AND ENGINEERING PROJECTS – BROOKS ACT**

TCATA will use the Brooks Act on all qualified base process for architectural and engineering (A&E) projects. A&E are service for program management, construction management, feasibility studies, preliminary engineering, design, architectural, engineering, surveying, mapping and related services that lead to construction. Price must not be considered during the selection stage; qualifications of the firms is used to determine contract award. Price then can be negotiated with the qualifying firms. If an agreement can't be reached, then we go to the next qualifying firm until we have a fair and reasonable price.

This procurement process is only used on A&E projects. Non-A&E procurements must use the method appropriate for the project.

## **LOBBYING**

**Prohibition Against the use of Federal Funds for Lobbying** – Regulations set forth in 49 CFR Part 20, prohibit the use of Federally appropriated funds to pay for influencing or lobbying with Federal government officials. Further, Federal grantees and contractors are required to certify compliance with prohibition **and** to disclose certain lobbying activities conducted with non-Federally appropriated funds. The TCATA will require that lobbying certifications be signed and submitted with any bid/proposal on a Federally funded contract exceeding \$100,000.

## **NOTIFICATION OF LEGAL MATTERS**

**Notification of current or prospective legal matters that may affect the Federal Government.** The Contractor acknowledges that the provisions of the FTA Master Agreement, Section 39(b), apply to its actions pertaining to this project. Upon execution of the underlying contract, the Contractor certifies or affirms that if a current or prospective legal matter that may affect the Federal Government emerges, the Contractor must notify TCATA.

(1) The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason.

(2) Matters that may affect the Federal Government include, but are not limited to, the Federal Government's interest in the Award, the accompanying Underlying Agreement, and any Amendments thereto, or the Federal Government's administration or enforcement of federal laws, regulations, and requirements.

The Contractor agrees to include the above clause or similar clause in each subcontract financed in whole or in part with Federal assistance provided by FTA.

## **PROCUREMENT REQUESTS**

**I.** TCATA's staff and management shall review, at least annually, any proposed procurement to avoid unnecessary or duplicate items. Such review shall give consideration to consolidation or breaking out procurement to obtain the most economical purchase. Lease consideration will be given to those items which may offer an economical advantage over a purchase.

**II.** TCATA's staff and management will consider use of other Federal, State or local surplus property in lieu of purchasing when such use is feasible and reduces project costs.

**III.** The Purchaser will make awards only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such items as contractor integrity, compliance with public policy, past performance, financial and technical resources.

**IV.** TCATA will maintain sufficient records to detail the history of a procurement. Such records shall include method of procurement, selection of contract type, contractor selection (or rejection), and the contract price.

**V.** TCATA will maintain good administrative practice and sound business judgment for the settlement of all contractual and administrative issues arising out of procurement. These issues include, but are not limited to, source evaluation, protests, disputes, claims as necessary. These practice and sound business guidelines shall be in accordance with applicable statute, including FTA management guidelines in Circular 5010.1D

**VI.** TCATA shall provide for bid protests or disputes to be submitted as identified in Appendix E with appealing to the Executive Director as the first administrative procedure. If a contractor, or potential contractor submits an appeal in writing, the Executive Director shall review the protests and appeal and base a decision on the submitted information. If the contractor or potential contractor so desires, they may

submit a protest of the TCATA's dispute procedures for review to FTA at the Regional office. TCATA will notify the FTA at the time of the protest and denial. Protest must be received within five (5) working days of the date when the protester has received actual or constructive notice of the recipient's final decision.

**VII.** TCATA will treat any prospective contractor or sub-contractor listed on a centralized State government debarment and suspension list as nonresponsible and ineligible for contract award.

**V111.** TCATA restricts or prohibits the following contract types:

- (a) Cost Plus a Percentage of Cost—Prohibited. The Common Grant Rules expressly prohibits the use of the cost plus a percentage of cost method of contracting.
- (b) Percentage of Construction Cost—Prohibited. The Common Grant Rules expressly prohibits the use of the percentage of construction cost method of contracting.
- (c) Time and Materials—Restricted. The Common Grant Rule for governmental recipients permits the use of time and material contracts only:
  - 1 When to Use. After determining that no other contract type is suitable; and
  - 2 Firm Ceiling Price. If the contract specifies a ceiling price that the contractor may not exceed except at its own risk.

## **COMPETITION**

**I.** TCATA will conduct all procurement in a manner to provide full and open competition. Some situations considered to be restrictive of competition include, but are not limited to:

- (a) Placing unreasonable requirements on firms in order for qualification;
- (b) Requiring unnecessary experience and excessive bonding;
- (c) Noncompetitive pricing practices between firms and or between affiliated companies;
- (d) Noncompetitive awards to professionals and other consultants that are on retainer contracts;
- (e) Organizational conflicts of interest;

- (f) Specifying only a 'brand name' product instead of allowing 'an equal' product to be offered, and/or specifying performance or other salient characteristics of the brand name product;
- (g) Any arbitrary action in the procurement process;
- (h) Use of statutorily or administratively imposed "local" geographical preference;
- (i) Failure to incorporate a clear and accurate description of the technical requirements for the material, product or service to be procured. Such description shall not, in competitive procurement, contain features that unduly restrict competition.

**II.** TCATA will provide a clear and accurate description of all requirements that offerors must fulfill and all other factors to be used in evaluating bids or proposals. Such clear and accurate description shall include the description of the technical requirements of the material, product or service being sought.

## **DEBARMENT AND SUSPENSION**

TCATA will treat any prospective contractor or sub-contractor listed on a centralized State government debarment and suspension list as non-responsible and ineligible for contract awards.

To see if a prospective contractor is eligible, we will look on the website [www.SAM.gov](http://www.SAM.gov) and when the bid has been received.

## **INDEPENDENT COST ESTIMATE (ICE)**

TCATA will complete an ICE on all procurements over the Federal threshold of \$150,000 and on lower cost purchases where one is indicated. We will use it to determine the reasonableness of the bid or proposal being evaluated. We will do the ICE if it is a simple budgetary estimate. If it's a complex procurement and we don't have the expertise, we will have someone who has the expertise perform the ICE.

Doing an ICE will alert us if any competitors are submitting unreasonably high or low-cost proposals.

## **COST ANALYST**

- I.** The cost analyst helps to determine the reasonableness of the contract cost.
- II.** The offer or elements (that is, labor hours, overhead, materials, and so forth) of the estimated cost, (such as professional consulting and A&E contracts, and so forth). Will be considered.



**III.** TCATA will conduct a cost analysis when price competition is inadequate, when only a sole source is available, even if the procurement is a contract modification, or in the event of a change order.

## **PRICE ANALYST**

**I.** When TCATA can justify price reasonableness of the proposed contract based on a catalog or market price of a commercial product sold in substantial quantities to the general public or based on prices set by law or regulation a cost analysis is no needed.

**II.** If TCATA determines that competition was adequate, a price analysis, rather than a cost analysis will be conducted to determine the reasonableness of the proposed contract price in Micro Purchases.

**III.** TCATA may use an abbreviated price analysis for small purchases in most cases. One method to record this price analysis is through the use of a preprinted form on which a contracting officer (or other responsible person) can annotate a finding of fair and reasonable pricing and check off the most common reasons why this would be so, such as catalog or market prices offered in substantial quantities to the general public, regulated prices (for example, for many utilities purchases), or a comparison with recent prices for similar goods and services.

## **CONTRACTING COST OR PRICE ANALYSIS**

**I.** TCATA will perform a cost or price analysis in connection with every procurement action, including contract modification.

**II.** TCATA will negotiate profit as a separate element of the price for each contract in which there is not price competition, and in all cases where cost analysis is performed. To established fair and reasonable profit, consideration will be given to such things as the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance and industry profit rates for similar work.

**III.** TCATA will only allow costs or prices based on estimated costs for contracts under grants to the extent that costs incurred, or costs estimates included in negotiated prices are consistent with Federal cost principles.

**IV.** TCATA will not allow or contract under any "cost plus" or "cost plus a percentage" methods.

## **METHOD OF PROCUREMENT**

**I TCATA Will Use MDOT's Procurement Guidelines-** Using procedures in Appendix A for supplies, materials and service.

**II. Micro & Emergency Purchases** – pursuant to FTA C 4220.1F and the MDOTs Appendix D, Fair and Reasonable Price Determination, TCATA may make micro purchases which do not exceed \$10,000.00 without competitive procurement quotations **if** the TCATA believes that the price is fair and reasonable. In addition, emergency situations which require repairs which are reasonably believed to be under \$10,000.00 may be authorized without competitive quotations.

- (a) A written determination as to why price is deemed fair and reasonable must be on file with each purchase made under this method of procurement using Micro-Purchase Price Reasonableness Determination Form Appendix B.
- (b) Splitting of procurements to avoid the competitive procurement requirements of federal and state statues shall not be condoned.
- (c) MDOT's Procurement Appendix B with appropriate Federal Clauses must be submitted if Davis Bacon applies.

**III. Small Purchase Procurement** – for supplies, materials and services which shall be more than \$10,000 to \$250,000 in the aggregate. Such procurement shall be made in the following manner:

- (a) A minimum of two price or rate quotations shall be obtained from qualified sources;
- (b) The procurement will be made from the lowest priced qualified bid, if products or goods are equal;
- (c) MDOT requires for procurements under \$25,000.00. Included Procurement Appendix A, B, E, F, G, H or I and Vehicle Specification certification if applies.
- (d) MDOT requires for procurements over \$25,000.00 solicitations, including specifications and written selection procedures (lowest bids), Include Procurement Appendix A, F, G, H or I and Vehicle Specification certification if applies. Third Party Contracts with applicable clauses and bond documents must be included.

**IV. Sealed Bid Procurement** – for supplies, materials and services more than \$250,000 in the aggregated, or when sealed bid procurement will provide for the best competitive pricing for those procurement under \$250,000 in the aggregate. Such procurement shall be made if the following is available;

- (a) A complete, adequate, and realistic specification or description is available.
- (b) Two or more responsible bidders are willing and able to compete effectively for the business.
- (c) The Procurement lends itself to a firm fixed price contract and the selection of a successful bidder can be made principally on the basis of price.
- (d) MDOT requires specifications and written selection procedures Include Procurement Appendix A, E, G, H or I, J, K, L, M. Summary of evaluation criteria including identification of selection panel members. Third Party Contract with applicable clauses and bond documents must be included.

**Sealed bids will be performed in the following manner:**

- (a) The invitation for bids will be publicly advertised and bids shall be solicited from an adequate number of known suppliers, with sufficient time prior to the date set for bid opening;
- (b) The invitation for bids will include any and all specifications and pertinent attachments, and shall define the items or services sought in order that the bidders may properly respond;
- (c) All bids will be publicly opened at the time and place prescribed in the invitation for bids;
- (d) A fixed-price contract awards will be made in writing to the lowest responsive and responsible bidder. Where specified in the bidding documents, factors such as discounts, transportation costs, and life cycle costs shall be considered in determination of the lowest bid. Payment discounts will only be used to determine the low bid when prior experience indicates such discounts are usually taken advantage of;
- (e) Any or all bids may be rejected if there is a sound documented business reason.

**V Competitive Proposal Procurement** – for supplies, materials, and services with more than one source submitting a proposal, and either a fixed price or cost reimbursement type contract is to be awarded. This will generally be used when

conditions are not appropriate for the use of sealed bids. Competitive proposal shall be honored to the maximum extent practical;

- (a) Requests for proposals will be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals shall be honored to the maximum extent practical;
- (b) Proposals will be solicited from an adequate number of qualified sources when possible;
- (c) TCATA will make the evaluation and selection without negotiation with any offered. However, TCATA, if it decides to conduct negotiations, will negotiate with all offers in a complete range, i.e., all offerors that TCATA determines have a reasonable chance of selection for award based on cost or price and other specified factors of the solicitation;
- (d) The award will be made to the responsible firm whose proposals is most advantageous to TCATA's program with price and other factors considered;
- (e) TCATA will use competitive proposal procedures for qualifications-based procurement of architectural and engineering services, or related services such as program management, constructions management, feasibility studies, preliminary engineering, design, surveying, mapping, or related service, and may use this procurement method for rolling stock.
- (f) TCATA will follow the guidelines of FTA Circular 4220.1F for qualifications of this type of procurement.
- (g) TCATA will use the Small Business Element of FTA Circular 49CFR26.39 to foster small business. Documentation of estimated cost will be used to ensure the small business price is competitive.

**VI. Sole Source Procurement** – may be use through solicitation or acceptance of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate, or it is difficult to compare offers due to questions of quality of integral parts of the items for procurement. A contract amendment or change order that are not within the scope of an original contract is a sole source procurement, and therefore, must comply with the following:

- (a) Sole Source Procurement may be used only when the award of a contract Infeasible under small purchases procedures, sealed bids, or competitive proposal and at least one of the following circumstances applies;

- (1) The items is available only from a single source;
- (2) A public emergency for the requirement will not permit a delay resulting from competitive solicitation;
- (3) FTA authorized noncompetitive negotiations;
- (4) After solicitation of a number of sources, competition is inadequate;
- (5) The item is an associated capital maintenance item as defined in Section 9 (I) of the Federal Transit Act that is procured directly from the original manufacturer or supplier of the item to be replaced.
- (6) TCATA must first certify in writing to FTA (a) that such manufacturer or supplier is the only source for such item; and (b) that the price of such item is no higher than the price paid for such item by like customers.
- (7) Cost analysis, verifying the proposed cost data, the projections of the data, and the evaluation of the specific elements of costs and profit are completed as required under FTA Circular 4220.1F.

**MDOT’S RULE ARE THE FOLLOWING:**

**Noncompetitive Proposals (Sole Source) – any dollar amount**

Sole-source procurements are accomplished through solicitation or acceptance of a proposal from only one source, or after solicitation of a number of sources, competition is determined to be inadequate. A contract amendment or change order that is not within the scope of the original contract is considered sole-source procurement.

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

1. The item is available only from a single source;
2. The public urgency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
3. FTA authorizes noncompetitive negotiations;
4. After solicitation of a number of sources, competition is determined inadequate; or
5. The item is an associated capital maintenance item as defined in 49 U.S.C. Section 5307(a) (1) that is procured directly from the original manufacturer or supplier of the item to be replaced. The grantee must first certify in writing to FTA: (1) that such manufacturer or supplier is the only source for such item; and (2) that the price of such item is no higher than the price paid for such item by like customers.

A detailed cost analysis must be prepared and approved by MDOT to verify the proposed cost data, the projections of cost data, and the evaluation of the specific elements of costs and profit is required. **This information must accompany the grantee's award recommendation and the recommended bid/proposal when it is submitted to MDOT for review and concurrence prior to the award being made.**

## **CONTRACTING WITH DBE, WBE, SMALL AND MINORITY FIRMS**

TCATA will take all necessary affirmative steps to assure that minority firms, WBE, small business and labor surplus area firms are used when possible. TCATA will follow FTA Circulars 4220.1F and 4716.1A to assure that minority firms, DBE, WBE, Small Business and labor surplus area firms are utilized when possible.

Every three years our DBE Coordinator will complete a DBE plan that sets a goal for the percentage of participants. TCATA has adopted percentage goals for DBE participation which are consistent with TCATA's own spending patterns and with the amount of DBE participation that would be expected to be achievable in a RACE NEUTRAL marketplace. The rules and regulations require that goals be based upon demonstrable evidence of relative availability of DBE's in the TCATA geographical and product markets.

## **EVALUATIONS**

- I. General.** When evaluating bids or proposals submitted, TCATA is to consider all evaluation factors specified in its solicitation documents, and evaluate the bids or offers only on the evaluation factors included in those solicitation documents. We will not modify its evaluation factors after bids or proposals have been submitted without re-opening the solicitation.
- II. Options.** In awarding the contract that will include options, the following standards apply:
- III. Evaluation Required.** We will value bids or offers for any option quantities or periods contained in a solicitation if it intends to exercise those options after the contract is awarded.
- IV. Evaluation Not Required.** We need not evaluate bids or offers for any option quantities when we determine that evaluation would not be in its best interests. An example of a circumstance that may support a recipient's determination not to evaluate bids or offers for option quantities is when it is reasonably certain that funds will not be available to permit it to exercise the option.
- V. Evaluators.** In addition to evaluators with experience in technical or public policy matters related to the procurement, other evaluators may also include auditors and financial experts to the extent that we determine it would be necessary or helpful. If it is determined that we will need to contract for evaluation services, the procurement

standards of this circular will apply to those contracts and to those contractors selected to perform procurement evaluation functions on behalf of the recipient.

## **CONTRACT AWARD.**

**I.** Award to Other Than the Lowest Bidder or Offeror. Federal transit law at 49 U.S.C. Section 5325(c) authorizes us to award a contract to other than the lowest bidder if the award furthers an objective consistent with the purposes of 49 U.S.C. Chapter 53, including improved long-term operating efficiency and lower long-term costs. We may also award a contract to other than the offeror whose proposal is lowest, when stated in the evaluation factors of the solicitation. In both cases will be included in our solicitation document reserving the right to award the contract to other than the low bidder or offeror.

**II.** Award Only to a Responsible Bidder or Offeror. Map21 updates amended 49 U.S.C. Section 5325 to require FTA assisted contract awards be made only to “responsible” contractors possessing the ability, willingness, and integrity to perform successfully under the terms and conditions of the contract. Responsibility is a procurement issue that is determined by the TCATA after receiving bids or proposals and before making contract award.

## **Advance Payments**

Advance payments are payments made to a contractor before the contractor incurs contract costs. We could use its local share funds for advance payments. However, if there is no automatic preaward authority for its project, then advance payments made with local share funds before FTA assistance has been awarded, or before a letter of no prejudice has been issued or other preaward authority has been provided, or before FTA approval for the specific advance payment has been obtained, are ineligible for reimbursement. The following principles and restrictions apply:

1 Use of FTA Assistance Prohibited. We do not use FTA assistance to make payments to a third-party contractor before the contractor has incurred the costs for which the payments would be attributable.

2 Exceptions for Sound Business Reasons. Apart from advance payments that are customary, as discussed further, FTA does occasionally make exceptions to its advance payment prohibitions, if the recipient can provide sound business reasons for doing so and has obtained FTA’s advance written concurrence. If we seek to use FTA assistance to support advance payments, we will contact the regional office administering its project to obtain FTA concurrence.

a) Adequate Security for Advance Payments. FTA recognizes that advance payments may be needed for certain costs supported by sound business judgment. Adequate security for the advance payment is an essential pre-condition to FTA’s concurrence in the use of FTA or local share funds.

b) Customary Advance Payments. FTA recognizes that advance payments are typically required for, but are not limited to, public utility connections and services, rent, tuition, insurance premiums, subscriptions to publications, software licenses, construction mobilization costs, transportation, hotel reservations, and conference and convention registrations. Accordingly, the recipient may use FTA assistance to support or reimburse the costs of such acquisitions. FTA concurrence is required only when such advance payment or payments customarily required in the marketplace exceed \$150,000.

In summary, if there are sound business reasons justifying the advance payment and adequate security for the payment, FTA will generally concur in a written request for an exception.

## **OPTIONS**

In awarding the contract that will include options, the following standards apply:

- (1) Evaluation Required. In general, FTA expects the recipient to evaluate bids or offers for any option quantities or periods contained in a solicitation if it intends to exercise those options after the contract is awarded.
  
- (2) Evaluation Not Required. The recipient need not evaluate bids or offers for any option quantities when the recipient determines that evaluation would not be in its best interests. An example of a circumstance that may support a recipient's determination not to evaluate bids or offers for option quantities is when the recipient is reasonably certain that funds will not be available to permit it to exercise the option.

## **POST-AWARD CONTRACT ADMINISTRATION**

### **COMPLETED CONTRACT**

A completed contract is one which is both physically and administratively complete, and in which all aspects of contractual performance have been accomplished, terminated or otherwise disposed of by contract modification. A final payment is made to the vendor.

- (a) A contract is physically complete only after all articles and services called for under the contract, including such related items as reports, spare parts, and exhibits, have been delivered to and accepted by the Authority, including



those articles and services for which no specific compensation may have been stipulated; and

- (b) A contract is administratively complete when all payments have been made and administrative actions accomplished.

## **REVIEW OF CONTRACT FILE**

The Purchasing Agent is responsible for review of the contract file and obtaining all necessary documentation to ensure that:

- (a) All deliverables and/or services (including any reports) required under the contract have been received and accepted;
- (b) The terms and conditions of the contract have been complied.

## **CONTRACT PERFORMANCE REPORT**

I A Contract Performance Report (Appendix D) must be performed by the Purchasing Agent.

II The Contract Performance Report is reviewed by the Executive Director.

III If there is a legitimate issue on the contract performance a meeting will be held with the Executive Director, Purchasing Agent and Contractor. Minutes will be taken at this meeting.

IV. If the issue has not been resolved it will be taken to the Board of Directors for review. Minutes will be taken at this meeting.

**WHEN USING FEDERAL ASSISTANCE TO FINANCE ITS PROCUREMENT OF NECESSARY SERVICES, MATERIALS, SUPPLIES, EQUIPMENT AND OTHER ITEMS ALL FEDERAL CLAUSES MUST BE FOLLOWED.**

**THEY CAN BE FOUND AT [www.mywaythere.org](http://www.mywaythere.org).  
>TCATA>BUSINESS OPPORTUNITIES**

## **APPENDIX A**

### **MDOT Procurement Guidelines**

- Procurement Guidelines for Grantee’s Receiving Federal Transit Funds via MDOT
- MDOT Review of Procurements
- Davis-Bacon Act – Employee Rights
- Davis-Bacon Act – WH347 Certified Payroll Form

### **Appendices**

- Appendix A – Method of Procurement Decision Matrix
- Appendix B – Certification of Compliance with Federal Clauses
- Appendix C – Written Record of Procurement History
- Appendix D – Fair and Reasonable Price Determination
- Appendix E – Independent Cost Estimate
- Appendix F – Quotations
- Appendix G – Fewer Than 3 Offers Received Evaluation
- Appendix H – Price Analysis
- Appendix I – Cost Analysis
- Appendix J – Responsibility Determination
- Appendix K – Advertisement and Solicitation
- Appendix L – Bid Opening
- Appendix M – Proposal Tabulation
- Appendix N – Price Analysis for MIDeal

### **Contract Clauses**

- All Federal Clauses
- Total Vehicle Procurements greater than \$150,000
- Total Vehicle Procurements less than \$150,000
- Construction less than \$150,000
- Construction over \$150,000
- Materials & Supplies less than \$150,000
- Materials & Supplies over \$150,000
- Operations and Management less than \$150,000
- Operations and Management over \$150,000
- Professional A&E less than \$150,000
- Professional A&E over \$150,000
- Research & Development less than \$150,000
- Research & Development over \$150,000

Vehicle Purchase Specification Certification  
Post-Delivery Audit Forms (A7-A12)  
State Vehicle Contracts and Procurement  
Third Party Contract Form  
Appendix A - Prohibition Of Discrimination in State Contracts

## **APPENDIX B**

### **Micro-Purchase Price Reasonableness Determination**

The price(s) paid for items hereunder are determined to be fair and reasonable, based on:

- Adequate competition (two or more quotes received and award made to lowest, attach documentation.
- Current price lists or off-the-shelf pricing
- Catalog price
- Price(s) found reasonable on recent previous purchases
- Advertisements
- Similar items in a related industry
- Other (describe)

Initials: \_\_\_\_\_ Date: \_\_\_\_\_

## **APPENDIX C**

# **LEASE VS PURCHASE ANALYSIS**

This written cost comparison and the supporting cost calculations have been made in accordance with 49 CFR 639 - Subpart C - Cost-Effectiveness. Twin Cities Area Transportation Authority certifies pursuant to 49 CFR 639.21(a) (2) that leasing [Identify Asset] from [Lessor] is more cost-effective than purchasing and/or constructing those assets.

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[Name and Title]  
Twin Cities Area Transportation Authority

**APPENDIX D**

**TWIN CITIES AREA TRANSPORTATION AUTHORITY  
CONTRACT PERFORMANCE REPORT**

This report is to confirm all deliverables and/ or services (including reports) has met Twin Cities Area Transportation requirement under the contract. A separate form is to be used when reporting on more than one contract or product. This office will use the information to improve our awards and contracts, where appropriate.

Contract Number \_\_\_\_\_

Contractor \_\_\_\_\_

Describe Product\* (include item No., if available)

\_\_\_\_\_

\*Note: "Product" is defined as deliverable under any Bid or Contract, which may include commodities (including printing), services and/or technology. The term "Product" includes Licensed Software.

- Product meets you needs
- Product meets contract specifications
- Pricing
- Disadvantage Business Enterprise requirements

Comments: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Contractor Address: \_\_\_\_\_ Prepared by: \_\_\_\_\_

\_\_\_\_\_ Title \_\_\_\_\_

\_\_\_\_\_ Date \_\_\_\_\_

\_\_\_\_\_ Phone \_\_\_\_\_

\_\_\_\_\_ E-mail \_\_\_\_\_

**Keep with other procurement documentations**

## **APPENDIX E**

### **TWIN CITIES AREA TRANSPORTATION AUTHORITY BID PROTEST PROCEDURE**

#### **1. Bid Protest Filed Must:**

- a) Be a written protest.
- b) Be received within five (5) working days of the date when the protester has received actual or constructive notice of TCATA's final decision.
- c) Include:
  - 1) Date of bid.
  - 2) Subject of bid.
  - 3) Reason for protest
- d) Be addressed to:
  - Executive Director, Twin Cities Area Transportation Authority
  - 275 East Wall
  - Benton Harbor, MI. 49022

#### **2. Bid Protest Will Be Answered:**

- a) Within 30 days of receiving written protest.
- b) Answered by the Executive Director.
- c) Will be a written response.
- d) Send a report on the protest to the vendor.

#### **3. Vendor Must Respond in Ten Days:**

- a) Failure to file comments will result in dismissal of the protest.

#### **4. Vendor Doesn't Agree with Finding:**

a) Contact Federal Transit Administrations Regional Office:

Region 5 Office  
Federal Transit Administration  
200 West Adams Street  
Suite 320  
Chicago, IL 60606  
United States  
Phone: 312-353-2789  
Fax: 312-886-0351  
Business Hours:  
8:30 a.m.-5 p.m. CT, M-F