

CITY TRANSIT TRUST PROCUREMENT MANUAL

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Definitions

A&E- Architectural and Engineering

Approved Equal- An item or service which has been approved by the procuring agency as equal to the brand name item originally specified.

Approved Products List (APL)- A list of products that have been approved prior to the bidding process that meet a defined specification . Referred to as qualified products list.

Associated Capital Maintenance Item- Equipment, tires, tubes, or material each costing at least 0.5 percent of the current fair market value of rolling stock comparable to the rolling stock for which the equipment, tires, tubes, and material are to be used.

Award- The act of accepting a bid, thereby forming a contract between the state and a bidder.

Bid- To offer a price, as in contract.

Bid Tabulation- The recording of bids and bidding data for purposes of bid evaluation and record keeping.

Bidder- An individual or entity that submits a bid. The term includes anyone acting on behalf of the individual or other entity that submits a bid, such as agents, employees, and representatives

Brand Name- A name of a product or service that is limited to the product or service produced or controlled by one private entity or by a closed group of private entities. Brand names may include trademarks, manufacturer names, or model names or numbers that are associated with only one manufacturer .

Competitive Bidding- The process of inviting and obtaining bids from competing sources in response to advertised competitive specifications, by which an award is made to the lowest and best bidder meeting the specifications. The process contemplates giving potential bidders a reasonable opportunity to bid, and requires that all bidders be placed on the same plain of equality. Each bidder must bid on the same advertised specifications, terms, and conditions in all the items and parts of a contract. The purpose of competitive bidding is to stimulate completion, prevent favoritism and secure the best goods and services at the lowest practicable price, for the benefit of the state. Competitive bidding cannot occur where contract specifications, terms, or conditions prevent or unduly restrict competition, favor a particular vendor, or increase the cost of goods or services without providing a corresponding benefit to the Trust.

Contract- A mutually binding legal relationship obligating the seller to furnish the supplies or services (including construction) and the buyer to pay for them. A contract is enforceable by law. A contract occurs between two or more competent parties, to do or not do something not prohibited by law, for a law, for a legal consideration.

Contract Administration- Contract administration requires dedication and persistence on behalf of the purchaser. It is a critical element in the procurement cycle and must be carried out in all purchasing operations.

CTT- City Transit Trust

DBE- Disadvantage Business Enterprise certified by the Oklahoma Department of Transportation in accordance with 49 CFR Part 26.

DBE Source List- List of the names and addresses of DBE's in competing for various types of contracts that have been certified as eligible DBEs by the Oklahoma Department of Transportation .

Design Specification- Specifications describe the essential physical characteristics which an item bid must possess to be considered for award and so detailed as to describe how the product is to manufactured. Typical design specifications may include dimensions, materials used, commonly and competitively available components, and non-proprietary methods of manufacturing,

Fiscal Year (Transit Trust)- A period of 12 consecutive months, beginning July 1 of each year.

Fiscal Year (Federal)- A period of 12 consecutive months, beginning October 1 of each year.

Formal Bid- A written bid submitted in a sealed envelope in accordance with a prescribed format, or an electronic data interchange transmitted to the Trust in accordance with procedures established by the Trust.

ICE- Independent Cost Estimate

Invitation To Bid (ITB)- A written request for submission for a bid; also referred to as a bid invitation.

Large Purchase- A procurement that exceeds \$50,000.

Micro-Purchase- A procurement that does not exceed \$10,000.00 (The Davis-Bacon Act applies to construction contracts \$2,000.00 and over) .

Notice of Award- A letter signed by the director or his designee which awards and creates a term contract.

Offer- A proposal by one party to another which is intended of itself to create legal regulations on acceptance by the party to whom it is made.

Options- Trust may include options in contracts. An option is a universal right in a contract by which, for a specified time, a grantee may elect to purchase additional equipment, supplies, or services called for by the contract, or may elect to extend the term of the contract. If a grantee chooses to use options, the requirements below apply:

1. Evaluation of Options: The option quantities or periods contained in the contractor's bid or offer must be evaluated in order to determine contract award. When options have not been evaluated as part of the award, the exercises of such options will be considered a sole source procurement
2. Exercise of Option:
 - a. The Trust must ensure that the exercise of an option is in accordance with the terms and conditions of the option stated in the initial contract awarded.
 - b. An option may not be exercised unless the grantee has determined that the option price is better than prices available in the market or that the option is the more advantageous offer at the time the option is exercised.

Payment Bond- A deposit, pledge, or contract of guaranty supplied by a successful bidder to protect the state against loss due to the bidder's failure to pay material suppliers and subcontractors . Acceptable forms of payment bonds are; cashier's check, certified check, or irrevocable letter of credit issued by a financial institution subject to the laws of Oklahoma; United States Treasury bond; or certificate of deposit.

Performance Bond- A deposit, pledge, or contract of guaranty supplied by a successful bidder to protect the state against loss due to the bidders inability to complete the contract as agreed. Acceptable forms of performance bonds are those listed in the definition of payment bond.

Performance Specifications- Specifications based on the function and performance of a product or service under specified conditions. Preferably conditions that can be reproduced for testing purposes, that have been determined to be necessary for the item involved to perform and last as required. Performance specifications may include useful life, reliability in terms of average intervals between failure, and capacity.

Procurement Transaction- All functions that pertain to the obtaining of any goods, services, or construction, including development or selection of specifications; selection and solicitation of suppliers, vendors or contractors; preparation of award of contracts; and all phases of contract administration.

Proprietary- Products or services manufactured or offered under exclusive rights of ownership, including rights under patent, copyright, or trade secret law. A product or service is proprietary if it has a distinctive feature or characteristics which is not shared or provided by competing or similar products or services.

Purchase Orders-

- A. Open Market purchase order; a document issued by the Trust to accept a bid, creating an open market purchase contract.
- B. Automated Contract purchase order; a release order issued by the Trust under an existing term contract and pursuant to a requisition or similar products or services.

Recycled Materials- Materials, goods, or products that contain recyclable material, industrial waste, or hazardous waste that may be used in place of raw or virgin materials in manufacturing a new product.

Request for Proposal (RFP)- A written request for proposals concerning goods or services the state intends to acquire by means of the competitive sealed proposal procedure. The solicitation document to be made after other proposals are opened.

Sealed Bids- A formal bid.

Single Bid Purchase- The purchase of a single item. Multiple purchases of the same item are also considered a single item purchase.

Small Purchase- A procurement that costs a minimum of \$10,000 .01 and does not exceed \$50,000.00.

Sole Source Purchase- When item to be purchased is only available from a single source .

Solicitation- An invitation to Bids or a request for proposals.

Specifications- A description of what the purchaser requires and what a bidder or proposer must offer.

Source List- List of the name and addresses of businesses interested in competing for various types of contracts.

Terms and Conditions- The provisions specifying the nature of a contract.

Unit Price- The price of a selected unit of a good or service, e.g., price per ton, per labor hour, or per foot .

Vendor- A supplier of goods or services to the Trust.

1 Introduction

This manual is intended to promotion of full and open competition and serve City Transit Trust of Lawton, Oklahoma as a user-friendly, step-by-step, how-to guide for successful procurement practices in securing bids and proposals to make:

1. Micro-Purchases,
2. Small Purchases,
3. Large Purchases,
4. Sole Source Purchases, and
5. Single-Bid Purchases.

1.1 Compliance

This Procurement Manual establishes guidelines and minimum standards that the City Transit Trust of Lawton, Oklahoma, and the Lawton Area Transit System (LATS), will use to process third party contracts. This manual is intended to help the Trust comply with the Federal Transit Administration's (FTA) standards to ensure competitive bidding through full and open competition and equitable treatment of all potential sources for all purchases made with funding derived from the federal, state, and local government. Competitive proposals and sealed bid transactions will be conducted in a manner to provide maximum open and free competition consistent with FTA Circular 4220.1F "Third Party Contracting Requirements," (located in Appendix B) and Department of Transportation 49 CFR Part 18, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," The procedures contained herein establish standard business practices to ensure the timely, efficient, and economical delivery of services and materials. The following contracts are outside the scope of third party contracting and will not be governed by these policies and procedures:

1. Employment Contracts,
2. Real Estate Contracts, and
3. Intergovernmental Agreements.

The goal of procurement practices is to provide an atmosphere conducive to "Full and Open Competition," in which all procurement transactions will be conducted in a manner providing full and open competition to include avoidance of unnecessary or duplicative items. The Trust will avoid the following situations considered to be restrictive of competition:

1. Unreasonable requirements placed on firms in order for them to qualify to do business.
2. Unnecessary experience and excessive bonding requirements.
3. Noncompetitive pricing practices between firms or between affiliated companies.

4. Noncompetitive awards to any person or firm on a retainer contract.
5. Organizational conflicts of interest, which mean that because of other activities, relationships, or contractors, a contractor is unable, or potentially unable, to render impartial assistance or advice to the Trust; a contractor's objectivity in performing the contract work is or might be otherwise impaired; or a contractor has an unfair competitive advantage.
6. The specification of only a "brand name" product without listing its salient characteristics and not allowing "an equal" product to be offered.
7. Any arbitrary action in the procurement process.

The Trust shall conduct procurement in a manner that Prohibition on geographic preference in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. This does not preempt State licensing laws. Geographic location may be a selection criterion in procurement for architectural and engineering (A&E) services if an appropriate number of qualified firms, given the nature and size of the project, are able to compete for the contract. In-state or local geographic preferences may be used for construction labor hiring under the following conditions:

1. Except with respect to apprentices or trainees, a pool of readily available but unemployed individuals possessing the knowledge, skill, and ability to perform the work the contract requires resides in the city of Lawton.
2. The bid document includes appropriate provisions ensuring that the contractor(s) do not displace any of its existing employees in order to satisfy such hiring preference.
3. Any increase in the cost of labor, training, or delays resulting from the use of such hiring preference does not delay or displace any transportation project in the Oklahoma Statewide Transportation Improvement Program or the Lawton Metropolitan Planning Organization Transportation Improvement Program.

1.2 Documentation

In order to meet standards established by the FTA, and to be prepared for Triennial Reviews and Procurement Reviews, it is critical to accurately document procurement procedures. This manual outlines the steps to take and provides the standardized forms to complete for each type of procurement. Addresses, telephone numbers and website addresses have been included to help the buyer expedite each step. Appendix A contains the standardized forms to be used to document practices. FTA Circular 4220.1F is located in Appendix B.

The complete Best Practices Procurement Manual is located on the Federal Transit Administration's website, under the National Transit Library at <https://www.transit.dot.gov/funding/procurement/third-party-procurement/best-practices-procurement-manual>. A hard copy is located in the Planning Division and at LATS's administrative office.

To ensure full compliance, the Trust's Procurement Officer will maintain the procurement master files for capital and planning projects. It is important to work closely with the Procurement Officer to make sure the forms and documentation are completed on schedule and placed in the master file. The steps to perform each type of procurement are intended to serve as a checklist.

Additional information is located on the following websites:

- American Public Transportation Association- <http://www.apta.com>
- Code of Federal Regulations (CFR)- <http://www.gpo.gov/fdsys/bulkdata/CFR>
- Federal Acquisition Regulations-<http://www.gsa.gov/policy-regulations/regulations/federal-acquisition-regulation-far>
- FTA Master Agreement- <https://www.transit.dot.gov/funding/grantee-resources/sample-fta-agreements/fta-grant-agreements>
- FTA Procurement Helpline- <https://www.transit.dot.gov/funding/procurement/third-party-procurement/third-party-procurement-faqs>
- United States Code- uscode.house.gov

2 Chapter 2

2.1 Written Standards of Conduct

In order to conduct procurement activities in an ethical manner, a Code of Ethics and Conflict of Interest Policy is established for the Trust, stated as follows.

2.1.1 Personal Conflict of Interest

1. Preclude any employee, officer, or agent from participating in the selection, award, or administration of a contract supported with FTA assistance if he or she has any real or apparent conflict of interest. The employee, officer, agent, or Trustee,
2. Any member of his/her immediate family,
3. His or her partner, or
4. An organization that employs, or is about to employ, any of the above.

- Provide for disciplinary action for conflict of interest violations by the recipient's officers, employees, or agents.

1. It tends to influence the employee, officer, or agent in the discharge of employee's official duties; or
2. The employee, officer, or agent recently has been, or is now, or in the near future may be, involved in any official act or action directly affecting the donor or lender; or
3. The employee, officer, or agent has or appears to have influence over Trust' actions affecting

the donor or lender in the employee's official capacity.

Notwithstanding the above, this section shall not apply to the following scenarios:

1. An occasional unsolicited non-pecuniary gift of insignificant value (less than \$25.00) such as accepting food or refreshment of nominal value on infrequent occasions in the ordinary course of a business luncheon or business dinner meeting or other meeting, or unsolicited thank you cards or gifts of insignificant value such as coupons, balloons, floral arrangements, or small gift baskets.

2. Unsolicited advertising and promotional material such as pens, pencils, note pads, calendars, or other business-related items of nominal intrinsic value.
3. An unsolicited gift, gratuity, favor, entertainment, loan, or other thing of value when circumstances make it clear that an obvious long-standing social or family relationship rather than the business of the persons concerned is the motivating factor.

Purchasing employees must recognize that their purchasing activities are of public interest and a matter of public record, therefore, their actions must be conducted in a manner so as to be fully substantiated and legally defended in accordance with the authority of the Trust. At all times, Trust employees must endeavor to keep from involvement that could result in a possible position of "conflict of interest".

When an actual or potential violation of any of these standards is discovered, the person involved shall promptly file a written statement concerning the matter with an appropriate supervisor. The person may also request written instructions and disposition of the matter. If an actual violation occurs or is not disclosed and remedied, the employee involved may be either reprimanded, suspended, or dismissed. The vendor or potential vendor may be barred from receiving future contracts and/or have an existing contract canceled.

2.1.2 Organizational Conflicts of Interest

The Trust Procurement Officer and operational personnel are encouraged to work closely with the City of Lawton's Financial Services Division to review all situations that appear to have the potential for an organizational conflict of interest. Counsel can help in the preparation of restrictive contracting clauses suitable for the particular situation. Counsel can also recognize when involvement by FTA regional counsel would be appropriate.

Organizational conflicts of interest can cause two distinct problems. One concerns the issue of bias; the other involves the issue of unfair competitive advantage. An organizational conflict of interest occurs due to the type of work to be performed under a third party contract, or because of other activities or relationships such as:

1. A contractor is unable, or potentially unable, to render impartial assistance or advice to the Trust
2. A contractor's objectivity in performing contract work is or might otherwise be impaired
3. A contractor has an unfair competitive advantage.

Bias arises when a contractor is placed in a situation where there may be an incentive to distort advice or decisions. Whenever a contract is awarded that involves the rendering of advice, the question must always be asked as to whether the potential for a conflict of interest exists for the contractor rendering the advice. In fact, the Trust should always consider using a "Conflict of Interest Disclosure Statement," such as follows, in its solicitation when contracting for services of this nature.

The offeror shall provide a statement in its proposal which describes in a concise manner all past, present or planned organizational, financial, contractual or other interest(s) affected by any Trust

employee, officer, or agent; any member of these entities' immediate family, partner, or organization that employs, or is about to employ, any of the above, and which is restricted to the work under this solicitation. The interest(s) described shall include those of the proposer, its affiliates, proposed consultants, proposed subcontractors, and key personnel of any of the above. Past interest shall include any person owning more than 20% interest in the offeror, and the offeror's corporate officers, its senior managers and any employee who is responsible for making a decision or taking an action on this contract, where the decision or action can have an economic or other impact on the interests of a registered or affected organization.

The offeror shall describe in detail why it believes, in light of the interest(s) identified above that performance of the proposed contract can be accomplished in an impartial and objective manner.

In the absence of any relevant interest identified above, the offeror shall submit in its proposal a statement certifying that to its best knowledge and belief no affiliation exists relevant to possible conflicts of interest. The offeror must obtain the same information from potential subcontractors prior to award of a subcontract.

The General Manager of LATS and the Trust Procurement Officer will review the statement submitted and may require additional relevant information from the offeror. All such information, and any other relevant information known to the Trust, will be used to determine whether an award to the offeror may create a conflict of interest. If any such conflict of interest is found to exist, the Trust may (a) disqualify the offeror, or (b) determine that it is otherwise in the best interest of the Trust to contract with the offeror and include appropriate provisions to mitigate or avoid such conflict in the contract awarded.

The refusal to provide the disclosure or representation, or any additional information required, may result in disqualification of the offeror for award. If nondisclosure or misrepresentation is discovered after award, the resulting contract may be terminated. If after award the Contractor discovers a conflict of interest with respect to the contract awarded as a result of this solicitation, which could not reasonably have been known prior to the award, an immediate and full disclosure shall be made in writing to the General Manager and Trust Procurement Officer.

The disclosure shall include a full description of the conflict, a description of the action the contractor has taken, or proposes to take, to avoid or mitigate such conflict. The Trust may, however, terminate the contract for convenience if it deems that termination is in the best interest of the Trust by sending the Contractor a Notice of Termination specifying the nature of default.

The problem of unfair competitive advantage occurs most often when a contractor is developing specifications or statement of work that will be used in a future competitive solicitation. The problem most often causing unfair advantage occurs when the contractor writes specifications or statements of work around its own corporate competitive strengths or products, and then bids on those specifications or statements of work. The Trust can overcome the unfair advantage by placing reasonable restrictions on the contractor's involvement in the procurement that will utilize the specifications. Some form of advance restriction (limitation on future contracting) must be agreed to with the contractor as a provision within its consulting contract. Another typical problem scenario is that a contractor developing specifications or work statement may have access to information that the Trust has paid the contractor to develop, or which the Trust has furnished to the contractor for its work and which has not been made

public. When this information enhances the contractor's competitive position in the bidding, it represents an unfair competitive advantage. The potential solution to this problem is to fully disclose all information to the bidders for a reasonable time prior to receipt of proposals.

The situation of "unfair competitive advantage" is to be distinguished from a "fairly won competitive advantage" which naturally accrues to any contractor that can do work more efficiently because it has more experience (i.e., won more contracts) for its products or services. It is a fact that competitors are frequently discouraged from bidding on a particular procurement because they perceive an incumbent contractor to have an insurmountable competitive advantage by virtue of its previous work.

Environmental Impact Statements- There is a special regulatory requirement imposed by 40 CFR 1502 on contractors who develop environmental impact statements. These contractors are required to sign a disclosure statement certifying that the firm has no financial or other interests in the execution or outcome of the proposed project. This certification is intended to avoid situations where contractors are hired to study alternatives and potential environmental impacts of proposed projects when they have some corporate interest in the outcome of their findings. Grantees are advised to include such a certification in their Requests for Proposals for the consultant services so that such conflicts can be identified early in the contracting process, thus avoiding unnecessary expense to offerors and delays to the project.

Obtaining Access to Proprietary Information- When a consulting contractor requires proprietary information from others to perform a Trust contract, the contractor may gain an unfair competitive advantage. Imposed restrictions protect the information and encourage companies to provide it when necessary for contract performance. A contractor doing work for the Trust and requiring such information must refrain from unauthorized use or disclosure for as long as it remains proprietary and also must refrain from using it for any purpose other than that for which it was furnished. The Trust Procurement Officer will obtain copies of these agreements.

2.2 Compliance with the Trust Code of Ethics and Conflicts of Interest Policy

The Trust requires that all employees involved in procurement functions sign a Conflict of Interest Statement in July of each year, and members of the Trust sign the Statement at the beginning of each term, and that these signatures be kept on file by the Trust Procurement Officer.

Compliance with the Trust code of
Ethics and Conflict of Interest Policy

No Trustee, employee, or agent who directly participates in the selection of, award of, or administration of a contract supported by funds from the Federal Transit Administration or any other federal, state, or local government funds, shall have a financial interest of more than twenty percent (20%) or other interest in any contract or bid for furnishing supplies, materials, services, and equipment of any kind of Trust. Neither shall any officer, employee, agent, Board Member, or appointee, under penalty of dismissal, accept or receive from any person, firm, or corporation to whom any contract has been awarded or may be awarded, directly or indirectly, by rebate, gift, or otherwise, any money or other thing of value as established in the Trust's Procurement Manual, Section 2.1 "Written Standards of Conduct." Nor shall any Trustee, employee, agent, or appointee receive any promise, obligation, or contract for future reward or compensation from any such third party or use information gained from contracts for financial gain.

I certify that I have read the Code of Ethics and Conflict of Interest Policy (Chapter 2 of the Trust's Procurement Manual) and understand the above statement.

Employee, agent, or Trustee signature

Date

Printed Name

3. Procurement Process, Planning and Organization

The following sections are written as a step-by-step guide for the procurement process to assist Purchasers in making Micro-Purchases, Small Purchases, Large Purchases, Sole Source Purchases, in procuring through Invitation to Bid, and Request for Proposals. Follow these steps for purchases funded by the Federal, State and Local governments.

3.1. Micro-Purchases

1. (1) micro-purchases; *(if this method is used, include in this table the threshold used)*.
2. Micro-Purchases may be made without obtaining competitive quotations if the price is determined to be "fair and reasonable" and is documented as such. (For more information, see Best Practices Procurement & Procurement Manual Chapter 4 section 4.2.6 Single Bid). For purchases of \$10,000.00 or less no quotes are required.
3. Micro-Purchase are exempt from Buy America requirements.
4. Micro-Purchase procedures may not be used for Construction Contracts with a value of \$2,000 or greater. (See 3.6 for Construction Contracts procedures).
5. One method to equitably distribute the micro-purchases among qualified suppliers is to rotate through an approved supplier list. If possible, place Disadvantage Business Enterprises (DBEs) on the list. If this method is used, indicate the name of the company to be used, as well as the previous company used on the rotating list on the "Fair and Reasonable" Price Documentation (Form A-2).
6. Splitting procurement to avoid the \$10,000.00 competition requirement is not allowed. (For more information, see Best Practices Procurement & Procurement Manual Chapter 3 section 3.4.1).
7. Contract clauses are not required for Micro-Purchases.
8. Purchase cards may be used if the Price Determination Form (Form A-1) is up to date (signed at the beginning of each fiscal year). Talk to the General Manager or Assigned Procurement Officer of Lawton Area Transit System for information regarding this procurement method.
9. Make sure the project complies with Configuration Management. For more information, see Form A-6. Form A-6 does not need to be signed for Micro-Purchases.
10. To justify Sole Source Procurement, complete Form A-15 and include it with the Purchase Order documentation.

3.1.1. Steps Involved in Making Micro-Purchases

When making a micro-purchase, complete each of the following steps.

_____ Step 1: Any purchase over \$500.01 must complete an Independent Cost Estimate Prior to General Managers Budget Approval.

For Maintenance vehicle parts only, any purchase over \$1000.01 must complete an Independent Cost Estimate Prior to General Managers Budget Approval.

_____ Step 2: Obtain budget approval on all purchases from the General Manager and his/her signature on a Purchase Order from \$500.01 (\$1000.01 for vehicle parts) to \$10,000.00.

_____ Step 3: For vehicle part purchasing only, purchase order must be obtained and approved by the General Manager with his/her signature on the Purchase Order from \$1000.01 to \$10,000.00.

_____ Step 4: Determine the "fair and reasonable" price for the product or service to be purchased. Complete the "Fair and Reasonable" Price Documentation (Form A-2).

On the form indicate the method used to determine that the prices is "fair and reasonable".

If Verbal or online price quotes are used, write the name of the company and the dollar amount of the quotes in the spaces provided.

If newspaper advertisements are used, scan the advertisement and include it with the form.

If found reasonable based upon personal knowledge, explain in the space provided.

If any other method is used, place the name of the vendor and dollar amount of quote and comments in the space provided.

Sign and date the form.

_____ Step 5: Select the source that provides the product or service for the lowest price and meets the required specifications (as opposed to desired specifications). Make the purchase.

_____Step 6: Complete the "Fair and Reasonable" Price Documentation (Form A-2) and include it with the Purchase Order along with any other attachments (records, scans of advertisements, etc.) to be filed. When received, the invoice will also be included.

3.2. Small Purchases Not Exceeding \$50,000.00

1. Small Purchases are purchases that cost a minimum of \$10,000.01 and do not exceed \$50,000.00. Use this procurement method for: (small purchases; *(if this method is used, include in this table the threshold used)*)
 - a. Goods and services that are clearly defined
 - b. Construction projects
 - c. When the award can be made primarily based upon the price of the bid
2. This method of procurement allows for free and open competition.
3. Complete the Price Quotes Documentation for Small Purchases (Form A-3) prior to requesting bids or proposals.
4. Written price or rate quotations shall be obtained from at least three (3) qualified sources.
5. Advertise Invitation to Bid if the independent estimate exceeds \$50,000 .00.
6. The City of Lawton Financial Services is required to approve purchases of items over \$15,000.00 up to \$50,000.00.
7. After the bids are received, the City of Lawton Financial Services is required to award contracts over \$15,000.00.
8. Splitting procurement to avoid the \$50,000.00 competition requirement is not allowed. (For more information, see Best Practices Procurement & Procurement Manual Chapter 3 section 3.4.2).
9. Small Purchases are exempt from the Buy America requirements.
10. To justify Sole Source Procurement, complete Form A-15 and include it with the Purchase Order documentation.
11. No person or entity may restrict competition by;
 - a. Placing unreasonable requirements on firms in order for them to qualify to do business
 - b. Having an organizational conflict of interest
 - c. Requiring vendors to have unnecessary experience or unnecessary bonding
 - d. Giving preference in the evaluation of bids to in-state or local businesses, except in those cases where Federal statutes expressly mandate or encourage geographic preference. (This does not preempt State licensing law).

If the procurement good or service is listed in the approved State Contract, going out to bid with the steps listed below is not required. Documentation must be provided.

3.2.1. Steps Involved in Making Small Purchases

- _____Step 1: Before requesting budget approval, recipient must complete an Independent Cost Estimate (ICE).

Attach the (ICE) to the email to obtain authorization to go to bid from the General Manager/City of Lawton Financial Services.
- _____Step 2: Obtain a company ITB/RFP number from your Purchasing Manager.
- _____Step 3: Obtain at least three written price quotations and complete the Price Quotes Documentation for Small Purchases (Form A-3). For products and services that cost \$10,000.01 or more, request quotes in writing. Include the name of the company and the dollar amount of the quotes in the spaces provided. Sign and date the form. If possible, a DBE (Disadvantage Business Enterprise) shall provide one of these price quotes.
- _____Step 4: Select the source that provides the product or service for the lowest price and meets the required specifications (as opposed to desired specifications). Make sure the project complies with Configuration Management. For more information, see Form A-6. Form A-6 does not need to be signed for Small Purchases that do not exceed \$15,000.00. Form A-4 will need to be signed and approved by the City of Lawton Financial Services if the purchase exceeds \$15,000.00 but does not exceed \$50,000.00
- _____Step 5: Complete a Request for a Company Purchase order, obtain a copy of the purchase order signed by the General Manager/City of Lawton Financial Services and make the purchase.
- _____Step 6: Include the Price Quotes Documentation for Small Purchases (Form A-3) and any other documentation (records, scans of advertisements, etc.) with the Purchase Order to be filed. When received, the invoice will also be included.

3.3. Large Purchases Exceeding \$50,000.00

1. An independent estimate is required for purchases exceeding \$50,000.00.
2. Trust approval is required if the independent estimate exceeds \$50,000.00.
3. The Trust awards contracts over \$50,000.00.
4. Advertise Invitation to Bid or Request for Proposals if the independent estimate exceeds \$50,000.00.
5. When making a large purchase that costs more than \$50,000.00, complete each of the following steps.

3.3.1. Steps Involved in Making Large Purchases

- _____ Step 1: Obtain budget approval and the following signatures on the Purchase Order: General Manager and Trust Procurement Officer.
- _____ Step 2: Determine whether or not the purchase, service, or construction project exceeds \$50,000.00 by completing the Independent Estimate form (Form A-4).
- _____ Step 3: If the independent estimate for a capital item exceeds \$50,000.00 the purchase must be approved by the Trust. Prepare an agenda item for the Trust Meeting.
- _____ Step 4: Determine the Contract Type by completing the Justification for Contract Type form (Form A-5)
- _____ Step 5: Request that the Trust Disadvantaged Business Enterprise (DBE) Officer (See Appendix D for the person in this position) assign a DBE goal to the project and place the DBE Goal on the Purchase Order. Print the appropriate DBEs from the Oklahoma Department of Transportation (ODOT) DBE Source List.
- _____ Step 6: Prepare the Specifications and Bid Package. (See Chapter 4 for specific information and use the Invitation to Bid, General Requirements.

Coordinate basic safety and user requirements with all applicable City Departments include the safety and user requirements that interface with the procured facility, hardware, or system in the procurement specifications.

Make sure the project complies with Configuration Management, and complete and sign Form A-6 for the Contract File.

If the procurement involves technology, the Specification must include a clause whereby the contractor submits a letter of self-certification certifying compliance with National Architecture Standards (also Form A-6).

When it is impractical or uneconomical to provide a clear and accurate description of the product, a "brand name or approved equal" description may be used. However, the buyer must still identify the minimum needs and clearly describe the essential physical and functional characteristics of the brand name product. If you must use a brand name in your specification, you must allow bidders to substitute an equal product with a different brand name and allow equal brands, you must also specify the salient characteristics of the specified brand that will be among the criteria used in determining whether a suggested substitute is equal to the specified brand or not. (For more discussion, see Best Practices Procurement & Procurement Manual 2.5.1. Brand Names).

Specifications will be reviewed by the Evaluation Committee of the City Manager or his designee, Procurement Officer, and LATS General Manager, additional personnel are to be included if a technical review is necessary. Engineering personnel will be assigned to the Evaluation Committee for any construction contract.

_____Step 7:

The advertisement for the Large purchase competitive sealed bid must be published in The Lawton Constitution at least twice, (once a week for two consecutive weeks) indicating the deadline, date, time, and place by which bids will be received, and the date, time, and place where bids will be opened. Publish the first notification a minimum of thirty (30) days before the Bid Opening Date. The second publication of a bid for a public works project (the addition to real property) must be on or before the tenth (10th) day prior to the date the bid is to be opened and read aloud.

Post the notice on the LATS website (<https://ridelats.com/>)

Place the legal notice(s) in the file.

The advertisement must contain the following:

- The description of the work, goods, or services to be procured
- The location at which the bidding documents, plans, specifications, or other documents may be examined by all bidders and time and place of the pre-bid conference, if required by the Invitation to Bid (set the pre-bid conference a minimum of ten (10) days after the first notice publication)
- Approved Equal Deadline (set the deadline fourteen (14) days after the publication of the first notice)
- The date, time, and place for submitting bids and the date, time (include the time zone), and place for the opening of competitive sealed bids
- DBE program requirements or goals

- Trust bids will be returned unopened to the sender.

_____Step 8: Send the advertisement to third parties on the Trust Source List (list of businesses interested in competing for various types of contracts) and the vendors on the DBE Source List available to the public upon written request. To generate a solicitation mailing list, the APTA Directory located on the APTA website is a good place to start (<http://www.apta.com/>). Document the Vendors to whom the advertisement for bid was sent on the Vendor Solicitation List (Form A-7)

_____Step 9: Send sealed bid package to third parties requesting bid packages. List the vendors requesting bid packages on the Bid Package/RFP Request List (Form A-8). The Trust is allowed to charge vendors for the bid packages to cover postage. The bid package shall contain the items listed in Chapter 4, Section 4.1.

_____Step 10: To amend the bid package, see Chapter 4.

_____Step 11: Hold a Pre-Bid Conference.

The parties present must sign a sign-in-sheet (Sign in Sheet for Pre-Bid Conferences, Pre-Proposal Conferences, Bid Openings Form A-9).

The purpose of the Pre-Bid Conference is to go over the technical specifications and answer any questions about the product, service, or project that the vendors may have.

Hold the Pre-Bid Conference two or three days after the second public notice is published.

Vendors are not normally required to attend the Pre-Bid Conference. In the event the project is initially complex and attendance is absolutely critical and required, make this requirement clear in the advertisement and the Bid Package, and thoroughly document the reason for the mandatory attendance requirement to satisfy FTA reviews. (For more information on the Pre-Bid Conference, see the Best Practices Procurement & Procurement Manual Section 3.5.3).

Record minutes of the conference and send the minutes to the prospective offerors on the final solicitation mailing list.

_____Step 12: Date and time stamp the sealed bids as received.

_____Step 13: Keep a list of the responding vendors on the Responding Vendors List (Form A-10). Keep sealed bids sealed in a secure place until the bid opening.

_____Step 14: At the designated time and place, formally open and read aloud the sealed bids.

_____Step 15: Record the bids on the Bid Tabulation Form (Form A-11).

_____Step 16: Any sealed bids that reach Trust after the bid opening time and date must be mailed back to the source without opening. Complete the Bids/Proposals List (Form A-12).

You may have a policy in your bid package that states "Bids mailed via Fed-Ex, UPS, or similar carrier that were guaranteed for delivery but were not delivered will be accepted upon receiving proof of guaranteed delivery date." If so, and bids arrive late, send the vendor a letter and give them three days to respond and prove that they met the deadline requirements, if they do not respond or do not provide required proof send the bid package back to them unopened via certified mail.

_____Step 17: FTA establishes a Simplified Acquisition Threshold of \$250,000 as a large purchase that requires cost or price analysis with supporting documentation prior to the award of the contract. CTT establishes the Simplified Acquisition Threshold for large purchases as any procurement in excess of \$50,000. The method and degree of cost or price analysis required by CTT depends on whether the procurement is an Invitation for Bids or Request for Proposals. Although FTA utilizes a higher threshold from the Federal Acquisition Regulation (FAR), 48 C.F.R. Subpart 2.1 and in accordance with 41 U.S.C. 1908, the CTT requirements for cost/price analysis and supporting documentation meet all of the standards established by FAR. Actions and Methods for the cost/price analysis for large purchases are set out below:

a. Independent Cost Estimates (ICE)

Before the solicitation, Use of independent cost estimates of the proper price or cost for the products and services. In the case of construction, an Engineer's estimate of the contract value shall be required. Available resources for completion of the ICE may include for example: (1) the use of published price lists, (2) historical pricing information from contracts awarded by CTT, (3) comparable purchases by the other agencies, (4) engineering estimates, and (5) independent third party estimates (A&E construction cost estimates).

b. Price Analysis

The accepted forms of price analysis techniques include:

- Adequate price competition;
- Prices set by law or regulations;
- Established prices and market prices;
- Comparison to previous purchases;
- Comparison to a valid CTT independent estimate; and
- Value analysis.

c. Adequate Price Competition

CTT requires adequate price competition is present when at least two

responsible offerors respond to a solicitation and each offeror is able satisfy the requirement of the solicitation.

d. Comparison to Previous Purchases

If review of previous purchases is used for cost analysis the Procurement Officer must evaluate variations in the two purchases (old and proposed) to ensure the previous price was reasonable. The reviewer should examine quantity, quality, delivery schedule, design and other factors that can cause variations.

e. Comparison to a Valid CTT Independent Cost Estimate

Procurement Officer must verify the facts, and judgement used by the independent estimator such as; Did the estimator use current prices or established industry standards to determine the price to be fair and reasonable?

f. Cost Analysis:

Using this method requires review and evaluation of separate cost elements and profit in an offeror's proposal and the application of judgement to determine how well the proposed costs represent what the cost of the contract should be (see FTA Pricing Guide for additional information).

g. Technical Analysis

A technical analysis of the proposed types and quantities of materials, labor, special tooling, equipment, travel requirements, and direct costs is required. These analyses will be performed by personnel specializing in engineering, legal, financial, science, or other disciplines. At a minimum, the technical review will examine types and quantities of materials proposed and the need for the types and quantities of labor hours and labor types.

h. Advisory Audit Assistance

If CTT determines the offeror's proposal is significant and the costs of obtaining the audit assistance do not outweigh the potential benefit, CTT may utilize an independent CPA firm to examine the contractor's allowable costs in proposal and to contact the CPA that certified the contractor's most recent annual financial statements to verify information.

i. Profit/Fee

CTT will evaluate a fair and reasonable profit, by Negotiation of contractor profit

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 in the surrounding geographic area for similar work.

_____Step 18: Select the lowest, most responsive bid that meets the specifications as stated in the Invitation to Bid. Complete the Determination of Best Value form (Form A-16). In determining which products or services are in Trust's best interest, the agency may consider the following factors (if stated in the Invitation to Bid):

- Installation costs and hardware costs
- The overall life cycle cost of the requested equipment
- The estimated cost of employee training and estimated increase in employee productivity
- Estimated software and maintenance costs
- And criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose.

These factors are not the only ones you may use. Include information with the agency file for future clarification of the award. (For more information on "responsive and nonresponsive bids" see Best Practices Procurement & Procurement Manual Section 4.2.3).

_____Step 19: If the lowest bid is not selected, document the reasons for the selection on the Determination of Best Value form (Form A-16). If none of the bids are selected, document the reasons and start the bidding process over. The specifications may need to be amended. If a single bid or single responsive bid is received, refer to Section 4.2.6 Single Bid of the Best Practices Procurement & Procurement Manual in order to help determine fair and reasonableness of the bid and whether or not to accept the bid or reject the bid and begin the process again or abandon the project. If a single bid is received, an option is to return the negotiable bids as in a sole source procurement. However, Request for Proposals for services such as accounting, legal, architectural, and engineering may be negotiated.

_____Step 20: Allow for corrections to bids if there are mistakes such as minor informalities or irregularities, such as a decimal in the wrong place, or obvious or apparent clerical mistakes, discovered prior to award. If mistakes occur other than those listed above such as a subcontractor's quote left out of the bid, allow the contractor to withdraw the bid. If mistakes are discovered after the award is made, you may allow the contractor to withdraw the bid if caught early enough, or handle it as a change order if the vendor will remain the responsible low bidder. In this case, tell the vendor that you will review the change and let them know by a date and time you set.

_____Step 21: Check to see if the selected bidder has not been debarred from working on Federal Contracts. Complete the Contractor Verification form (Form A-17).

_____Step 22: The Trust must award the contract. Prepare an agenda item for the Trust Agenda.

- _____Step 23: Following Trust approval, send a Notice of Contract Award for Bids and RFP (Form A-21) to the selected vendor to inform the company of the contract award. Set a time to discuss the details of the contract.
- _____Step 24: The vendor must respond indicating receipt of the Notice of Contract Award for Bids and RFP by submitting the completed and signed Notice of Contract Award Acceptance for Bids and RFP (Form A-22).
- _____Step 25: Send letters to the other vendors not selected to explain why their bids was rejected and to inform them that a vendor has been selected. Mail these letters on the same day as the Notice of Contract Award.
- _____Step 26: The contract must be approved and signed by the Chairman of the Trust and the Secretary to the Trust. The contract is the Bid and Award Contract Form located in the Invitation to Bid Package that was signed by the Contractor when the bid was originally submitted.
- _____Step 27: Send the Contractor the Notice to Proceed (Form A-23)
- _____Step 28: Maintain a correspondence file for correspondence with the Contractor and Sub-Contractors. When the project is completed, give correspondence and all other outstanding information and forms to the Procurement Officer to file in the Procurement Master Project File.
- _____Step 29: Send two (2) copies of a letter to the vendor to sign in order to certify that all issues have been resolved. Use the Closeout Letter Release from Liabilities, Obligations and Claims form (Form A-24). Specifically address any and all issues that were in dispute or not resolved. When the letter is returned, have the General Manager sign the copies, retain one copy for the contractor file and mail the second copy back to the vendor.
- _____Step 30: Complete all Contract Closeout Procedures (refer to Chapter 7) and fill out the Inspection and Acceptance Closeout Form (Form A-25). The General Manager will ensure that the contract file is complete by finalizing the Master Contract File and completing the Master Contract File Check List (Form A-26)

3.4. Competitive Proposals (Requests for Proposals)

Requests for competitive proposals are used to produce architectural and engineering services, technology, legal services, accounting services, insurance and in cases where the quality of the service outweighs price. (For more information, see Best Practices Procurement & Procurement Manual 4.3.1). The competitive proposal method is normally conducted with more than one source submitting an offer (proposal).

Either a fixed price or cost reimbursement type contract is awarded. Request for Proposals must meet the following requirements according to Federal Circular C 4220.1F Chapter 6 3 d 2 Procurement Procedures:

1. Requests for Proposals must be publicly advertised.
Include all evaluation factors in the published notification and their respective importance.
2. All evaluation factors and their relative importance are specified in the solicitation.
3. Proposals will be solicited from an adequate number of qualified sources.
4. A specific method is established and used to conduct technical evaluations of the proposals received and to determine the most qualified offeror.
5. An award is made to the responsible offeror whose proposal is most advantageous to the recipient's program with price and other factors considered.
 - a. An independent estimate is required for fill purchases.
 - b. A cost analysis is required.
 - c. Proposers are required to submit corporate financial data and labor rates which proposers usually regard as privileged information. Therefore, treat all documentation received in response to Requests for Proposals as confidential. Should the need arise to share the contents of the proposal with another company or firm, first acquire permission in writing from a responsible official of the proposing firm. The General Manager will control the dissemination of proposals within the Trust so that only staff with a demonstrable "need to know" have access to the proposals.

The Transit Trust has also required the following:

1. The Trust is required to approve purchases of capital items over \$50,000.00 and all purchases over \$50,000.00.
2. After the bids are received, the Trust is required to award contracts over \$50,000.00 through an agenda item.
3. For additional information on Request for Proposals, see Best Practices Procurement Manual, Appendix B-1.

3.4.1. Steps Involved in Procuring Through Request for Proposals

Complete each of the following steps when soliciting proposals. Place the date of completion for each step on the line provided.

- _____ Step 1: Obtain budget approval and the following signatures on the Purchases Order: General Manager, and Trust Procurement Officer.
- _____ Step 2: Via-email, notify the General Manager about the project and include a project description, Work closely with the Procurement Officer to complete and file forms in the Master Project File throughout the project.
- _____ Step 3: Determine the approximate project cost by completing the Independent Estimate form (Form A-4).
- _____ Step 4: Determine the Contract Type by completing the Justification for Contract Type form (Form A-5).
- _____ Step 5: Request that the DBE Officer (See Appendix D) assign a DBE goal to the project and place the DBE Goal on the Purchase Order. Print the appropriate DBEs from ODOT's DBE Source List and attach the list to the requisition. (The DBEs listed on the DBE Source List are certified by Trust).
- _____ Step 6: If the independent estimate for a capital item exceeds \$50,000.00 the purchase must be approved by the Trust. Prepare an agenda item for the Trust Agenda. All purchases exceeding \$50,000.00 require approval by the Trust.
- _____ Step 7: For purchases that exceed \$50,000.00, inform the Trust Procurement Officer via e-mail.
- _____ Step 8: Prepare the Request for Proposal (RFP) and specify the required and desired elements.

Specify the weights that will be used to evaluate the proposals, (e.g. technical 40%, cost 20%, customer service 15%, training 15%, experience 10%).

If the project has a limited budget, you may include a budget range in the RFP.

Include the evaluation process in detail, the scoring methodology, and procedures to weigh price into selection. (For more information, see Best Practices Procurement & Procurement Manual, Section 4.3.4, and Chapter 4 of this manual.)

Include information about the Price Proposal in the Request for Proposals, and include the Contract Award Offer and Acceptance Form (Form A-20) on which proposer's will submit their original price proposal in a separate sealed

envelope.

The RFP may also contain the statement, "The award of this contract may be made on the basis of initial proposals submitted without any negotiations or discussions".

If necessary in order to obtain firm commitments from proposers, you may wish to require that the offerors provide a proposal guaranty in the form of a letter of credit, cashier's check, or approved performance bond.

Coordinate basic safety and user requirements with the City of Lawton. Include their safety and user requirements that interface with the facility, hardware, or system in the procurement specifications.

Make sure the project complies with Configuration Management, and complete and sign Form A-6 for the Contract File.

If the procurement involves technology, the Specifications must include a clause whereby the contractor submits a letter of self-certification certifying compliance with National Architecture Standards (also Form A-6).

_____ Step 9: The advertisement for competitive proposals must be published in The Lawton Constitution at least twice, (once a week for two consecutive weeks) indicating the deadline date, time, and place by which proposals will be received.

Publish the first notification a minimum of thirty (30) days prior to the closing date.

Post the notice on the LATS website (<https://ridelats.com/>)

Place the legal notice(s) in the file.

The advertisement must contain the following:

- The description of the work, goods, or services to be procured
- The location at which the plans, specifications or other documents may be examined by all proposers and time and place of the pre-proposal conference (if a conference is needed) (include the time zone); (set the pre-proposal conference a minimum of ten (10) days after the first notice publication)
- Approved Equal Deadline (set the deadline fourteen (14) days after the publication of the first notice)

- State the evaluation criteria or categories in order of weight in the advertisement (see Step 8 above)
- The date, time (include the time zone), and place of the submission deadline and the time frame for selection
- DBE program requirements or goals
- If you want the cost proposal separate from the technical proposal, state that you require a separate sealed cost proposal to accompany the technical proposal

_____ Step 10: Send either the Request for Proposals or the advertisement to third parties on the Trust Source List (list of businesses interested in competing for various types of contracts) and the vendors on the DBE Source List.

Make the Source List and DBE Source List available to the public upon written request.

To generate a solicitation mailing list, the APTA Directory located on the APTA website is a good place to start (<http://www.apta.com>).

Document the Vendors to whom the advertisement for bid was sent on the Vendor Solicitation List form (Form A-7).

_____ Step 11: Send the Request for Proposals (RFP) to third parties requesting the RFP. List the vendors requesting the RFP on the Bid Package/RFP Request List (Form A-8). The RFP shall contain the items listed in Chapter 4.

_____ Step 12: Hold the Pre-Proposal Conference-if needed. The parties present must sign a sign-in sheet (Sign-in Sheet for Pre-Bid Conferences, Pre-Proposal Conferences, Bid Openings Form A-9). The purpose of the Pre-Proposal Conference is to go over the technical specifications and answer any questions about the product, service, or project that the vendors may have. Hold the Pre-Proposal Conference two or three days after the second public notice is published. Proposers are not normally required to attend the Pre-Proposal Conference. In the event the project is unusually complex and attendance is absolutely critical and required, make this requirement clear in the advertisement and the Request for Proposal Package, and thoroughly document the reasons for the mandatory attendance requirement to satisfy FTA reviews. (For more information on the Pre-Proposal Conference, see Best Practices Procurement & Procurement Manual Section 3.5.3). Record minutes of the conference and send the minutes to the prospective proposers on the final solicitation mailing list.

_____ Step 13: Date and time stamp the proposals as received and keep them in a safe, secure location.

_____Step 14: Keep a list of the responding vendors on the Responding Vendors List (Form A-10)

_____Step 15: After the RFP submissions deadline has passed, convene the proposal evaluation committee. This Evaluation Committee shall consist of the City Manager or his designee, Procurement Officer, LATS General Manager, and additional personnel if technical reviews are necessary. An engineer shall serve on the Committee on all RFP's seeking architectural and engineering services. Committee members must sign the Compliance with The Trust Code of Ethics and Conflict of Interest Policy located in Chapter 2. Place signed copies in the Master File. The committee will select the proposer who is "most advantageous" with "price and other factors considered". (Price is not a consideration factor when procuring Architectural and Engineering Services under the Brooks Act). The selection committee must use the Proposal Evaluation Criteria Form (Form A-18), or your own variation of this form to score the proposal submitted. The members of the committee should remain confidential; therefore the committee members must use appropriate language on the forms. You may use weighted scores and pass-fail criteria on the evaluation form.

Criteria generally included the following categories:

- Responsibility of the Firm - financial, personnel, and physical capabilities to perform the contract (See Best Practices Procurement & Procurement Manual Section 4.3 for more detailed information)
- Technical Capability - technical experience, suitability of the products or methods proposed, objective performance criteria such as fuel efficiency, percent savings guaranteed, etc.)
- Price - except for Architectural and Engineering Services where the Brooks Act applies
- Compliance with Federal and State Regulations, and
- Management - qualifications of project managers, budget and schedule performance.

_____Step 16: Any proposal that reaches Trust after the submission deadline must be mailed back to the source without opening. Complete the Bids/Proposals List (Form A-12).

You may have a policy in your bid package that states "Bids mailed via Fed-Ex, UPS, or similar carrier that were guaranteed for delivery but were not delivered will be accepted upon receiving proof of guaranteed delivery date." If so, and bids arrive late, send the vendor a letter and give them three days to respond and prove that they met the deadline requirements, if they do not respond or

do not provide required proof send the bid package back to them unopened via certified mail

- _____ Step 17: Complete the Cost Analysis Documentation for Construction Contracts, RFP, and Sole Source (Form A-14). This form certifies that adequate price competition was obtained by comparison of quotations and the low price is fair and reasonable. A cost analysis is performed when the offeror is required to submit the following elements. Labor Hours, Overhead, Materials, etc. use of estimated costs under professional consulting and architectural and engineering services contracts. Otherwise, complete the Price Analysis Documentation (Form A-13) (See FTA Circular C 4220.1F, Chapter 6 Section 6).
- _____ Step 18: Select the responsive firm whose proposal is most advantageous to the program with price (unless the Brooks Act applies for A&E Services) and other factor considered. Contracting with responsible contractors agreement. Consider the following in making the award, integrity, compliance with public policy, record of past performance, and financial and technical resources.
- _____ Step 19: If you must negotiate with the vendor, ask the Procurement Officer for help. If you enter discussions with one vendor that submitted a proposal, you must enter discussions with all the vendors that submitted proposals and are within the pre-identified competitive price range. Document your discussions thoroughly and complete the Memorandum of Negotiations (Form A-19). This memorandum will ensure that both parties agree upon the negotiated terms and conditions. Provide the questions to the proposers prior to the discussion. The members of the selection committee normally conduct the negotiations. Request best and final offers on the Contract Award Offer and Acceptance Form (Form A-20). Evaluate the final proposals. (See Chapter 6 on Contract Negotiations). If there were no negotiations and the vendor fully meets the terms and conditions in the Request for Proposals, complete the information and signatures on the Contract Award Offer and Acceptance Form (Form A-20). The contract must be approved and signed by both the Chairman and Secretary to the Trust.
- _____ Step 20: If none of the proposals are selected, document the reasons and start the competitive proposal process over. The specifications in the RFP may need to be amended.
- _____ Step 21: If a critical error is found in the RFP during discussions, you may need to reissue a revised statement of work and ask the proposers to resubmit proposals.
- _____ Step 22: Check to see if the selected offeror has not been debarred from working on Federal Contracts. Check the Federal Government's General Services Administration Debarred Bidder's List at <http://www.sam.gov/> under Search

Records enter the offeror's information. Complete the Contractor Verification (Form A-17).

- _____ Step 23: Award the contract when you and the vendor are in full agreement with the terms and conditions of the offer (See the next step).
- _____ Step 24: All contracts that exceed \$50,000.00 must be awarded by the Trust. Prepare an agenda item for the Trust Agenda. For assistance, see the General Manager or his designee (Appendix D).
- _____ Step 25: Within five (5) workdays following Trust Approval, send a Notice of Contract Award of Bids and RFP (Form A-21) to the selected offeror to inform the company of the contract award. Set a time to discuss the details of the contract.
- _____ Step 26: The offeror must respond indicating receipt of the Notice of Award for Bids and RFP by submitting the completed and signed Notice of Contract Award Acceptance for Bids and RFP (Form A-22) within five (5) workdays of receipt of same.
- _____ Step 27: Send letters to the other vendors not selected to thank them for their proposal, and to explain the reasons their proposals were not selected on the same day as the Notice of Award. Use this opportunity to debrief the vendors not selected. By communicating a sense of fairness and appreciation to offerors who have spent time and resources in preparing a proposal, this action may preclude a protest by convincing a disappointed offeror that Trust's decision was made carefully, is factually supported, and is in the best interest of Trust. It can also help offerors improve future proposals. If debriefing is conducted in person and a vendor's legal counsel is present the Trust should also have legal counsel present. If debriefing is over the telephone assume that the conversation is being taped and ask if it is being taped (which is legal) and also ask who else is in the room. (See Best Practices Procurement & Procurement Manual Sections 4.3.11 for more information regarding Debriefing Unsuccessful Offerors and information that can be disclosed).
- _____ Step 28: Send the vendor the Notice to Proceed (Form A-23).
- _____ Step 29: Maintain a correspondence file for correspondence with the vendor. When the project is completed, give correspondence and all other outstanding information and forms to the Procurement Officer to file in the Procurement Master Project File
- _____ Step 30: Send two (2) copies of a letter to the vendor to sign in order to certify that all issues have been resolved. Use the Closeout Letter Release From Liabilities, Obligations and Claims form (Form A-24) as a template. Specifically address any and all issues that were in dispute or not resolved. When the letter is returned, have the General Manager sign the copy back to the vendor.

_____Step 31: Complete all Contract Closeout Procedures (refer to Chapter 7), and fill out the Inspection and Acceptance Closeout Form (Form A-25) . The Procurement Officer will ensure maintenance of written procurement history of the contract file is complete by finalizing the Master Contract File and completing the Master Contract File Check List (Form A-26).

3.4.2. Procurement of Architectural and Engineering Services

When architectural or engineering services costing less than \$20,000.00 are needed for a specific project, a qualified firm or individual will be selected on a rotation basis from a list of architects and engineers who have expressed an interest in doing business with the Trust or the City of Lawton and who have completed and submitted a Trust or City of Lawton Architect-Engineer and Services Questionnaire (Industry Standard Form 254).

Initial selection shall be based only on the demonstrated competence and qualifications of the person, including any firm, who is to provide the services. Price and/or number of man-hours must not be asked for or discussed during the initial selection phase.

_____ Step 1: After the firm or individual is selected, a contract shall be negotiated (see Chapter 6) at a fair and reasonable price using the Memorandum of Negotiations form (Form A-19).

_____ Step 2: When Contracting for Architectural, Professional Engineering Services, and Land Surveying, use the competitive proposal procedures based on the Brooks Act as defined in 40 U.S.C 11 (For the Brooks Act see <https://www.govinfo.gov/app/details/USCODE-2011-title40/USCODE-2011-title40-subtitle1-chap11/context>). (Also see Best Practices Procurement & Procurement Manual Section 3.4.9 for more discussion on procuring Architectural and Engineering Services).

The Brooks Act requires that:

- An offeror's qualifications be evaluated, and selection is based upon qualification not price
- Price be excluded as an evaluation factor although the price must be fair and reasonable
- Negotiations be conducted with only the most qualified offeror
- Failing agreement on price, negotiations with the next most qualified offeror are to be conducted until a contract award can be made to the most qualified offeror whose price is fair and reasonable to the grantee.

_____ Step 3: This "qualifications based procurement method" can only be used for the procurement of A&E services. This method of procurement cannot be used to obtain other types of services even though a firm that provides A&E services is also a potential source to perform other types or services. These requirements apply except to the extent any state adopts or has adopted by statute a formal procedure for the procurement of architectural and engineering services.

Other types of services considered A&E services include program management,

construction management, feasibility studies, preliminary engineering, design, surveying, mapping, and services which require performance by a registered or licensed architect or engineer.

- _____ Step 4: Develop Scope of Work.
- _____ Step 5: Choose the contract type most appropriate for the project such as fixed price, cost reimbursement, time and materials, and labor hour contracts. In this case it is the prime contractor that is assuming the risk that the subcontractor may not perform. If the prime contract were cost - reimbursement, then it would be prudent for the agency to become involved, to the point of requiring consent to the subcontract, since the agency would bear the risk of non-performance (and thus cost overruns) by the subcontractor. In the latter case the agency would want to ensure that no other type of subcontract was feasible, and also that stringent controls were in place for the prime to manage and monitor the subcontractor's work to ensure satisfactory progress. (See Best Practices Procurement & Procurement Manual Section 3 for more information on contract types).
- _____ Step 6: Request for Project Specific Qualification Statements must be publicized. Include all evaluation factors in the published notification. (Federal Standard form 255 is used to solicit and score project-specific qualifications).
- _____ Step 7: Conduct discussions with no fewer than three firms regarding anticipated concepts and the respective utility of alternative methods of approach for furnishing the required services. Invite the shortlisted firms to give oral presentations. Advise firms in advance of questions the committee should have members with experience in architecture, engineering, construction, procurement, EEO program, transit matters, and members from the operational departments that will ultimately use the project. Select the most qualified firm from this pool of firms based upon criteria established and published. If a reasonable price cannot be negotiated with the first firm, formally terminate negotiations with that firm, and proceed down the list in order of rank based upon qualifications until a price is negotiated.

To procure Architectural and Engineering Services, follow the procurement steps outlined above for Competitive Proposals (Request for Proposals) in Section 3.4.1

3.5. Sole Source Procurement

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 inadequate. A contract amendment or change order that is not within the scope of the original contract is considered a sole source procurement that must comply with this subparagraph from Section 3.i.1.b of Chapter 6 of FTA Circular 4220.1F.

1. Procurement by non-competitive proposals may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids, or competitive proposals and at least one of the following circumstances applies:
 - a. The item is available only from a single source (e.g. utilities, when only one entity owns the patent on the process or product required)
 - b. The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation
 - c. FTA authorizes noncompetitive negotiations
 - d. After solicitation of a number of sources, competition is determined inadequate, or
 - e. The item is an associated capital maintenance item as defined in 49 U.S. C §5302(3)(L) that is procured directly from the original manufacturer or supplier of the item to be replaced. The grantee must first certify the following in writing to FTA:
 - i. That such manufacturer or supplier is the only source for such item; and
 - ii. That the price of such item is no higher than the price paid for such item by like customers.
2. A cost analysis i.e. verifying the proposed cost data, the projections of the data, and the evaluation of the specific elements of costs and profit, is required.
3. Avoid Sole Source procurement except in circumstances where it is both necessary and in Trust's best interest.
4. Make sure the item or service is needed to meet a requirement and is not merely desired as something "nice to have"

3.5.1. Steps Involved in Sole Procurement

Complete the following steps when making a Sole Source Procurement. Place the date of completion for each step on the line provided. You may have already performed Steps 1 through 6 if (d) of Chapter 3.4.2 "After solicitation of a number of sources, competition is determined inadequate," is the reason for the sole source method of procurement.

- _____ Step 1: Obtain budget approval and the following signatures on the Purchase Order; General Manager, if procurement is by LATS or City Manager. City 's Financial Officer and Trust Procurement Officer, if Procurement is by Trust.
- _____ Step 2: Via e-mail, notify the Procurement Officer about the project and include a project description. Work closely with the Procurement Officer to complete and file forms in the Master Project File throughout the project.
- _____ Step 3: Determine the approximate project cost by completing the Independent Estimate form (Form A-4)
- _____ Step 4: Determine the Contract Type by completing the Justification for Contract Type form (Form A-5).
- _____ Step 5: If the independent estimate for a capital item exceeds \$50,000.00 the purchase must be approved by the Trust. Prepare an agenda item for the Trust Agenda. For assistance, see the General Manager's Administrative Assistant (Appendix D)
- _____ Step 6: For purchases that exceed \$50,000.00 inform the Trust Procurement Officer via e-mail. See Appendix D for the name of the person currently in this position.
- _____ Step 7: Prepare the Invitation to Bid or the Request for Proposal (RFP) and specify the required and desired elements. (See chapter 4 for more information regarding bid packages). Coordinate basic safety and user requirements with City of Lawton. Include these safety and user requirements that interface with the procured facility, hardware, or system in the procurement specifications. Make sure the project complies with Configuration Management, and complete and sign Form-A-6 for the Contract File. If the procurement involves technology, the Specifications must include a clause whereby the contractor submits a letter of self-certification certifying compliance with National Architecture Standards (also Form A-6). In Sole Source Procurement, include the Contract Award Offer and Acceptance Form (Form A-20) in the ITB or the RFP.
- _____ Step 8: Complete Sole Source Procurement Justification form (Form A-15).
- _____ Step 9: Complete Cost Analysis Documentation form (Form A-14). If price reasonableness can be established on the basis of a market price of a commercial product sold to the general public in substantial quantities or on the basis of prices set by law or regulation, complete the Price Analysis

Documentation form (Form A-13). (Section 6 of Chapter 6 of FTA Circular 4220.1F).

- _____ Step 10: Check to see if the selected vendor has not been debarred from working on Federal Contracts. Go to the Federal Government's General Services Administration Debarred Bidder's List at <http://www.sam.gov/> under Search Records enter the offeror's information. Complete the Contractor Verification form (Form A-17).
- _____ Step 11: Complete negotiations and come to full agreement with the terms and conditions in the Invitation to Bid or Request for Proposal and the offer. If Trust must first negotiate with the vendor to arrive at an agreement, complete the Memorandum of Negotiations form (Form A-19), and have it signed by the vendor and Trust officers. This memorandum will ensure that both parties agree upon the negotiated terms and conditions. See Chapter 6 on "Contract Negotiations for more information".
- _____ Step 12: All contracts that exceed \$50,000 must be awarded by the Trust. Prepare an agenda item for the Trust Agenda. For Assistance, see the General Manager's Administrative Assistant (Appendix D).
- _____ Step 13: Within five (5) working days of Trust approval, if needed, or signing the Memorandum of Negotiations form (Form A-19), if the contract is awarded, send a Notice of Contract Award of Bids and RFP (Form A-21) to the selected vendor to inform the company of the contract award. Set a time to discuss the details of the contract.
- _____ Step 14: The vendor must respond indicating receipt of the Notice of Contract Award for Bids and RFP by submitting the completed and signed Notice of Contract Award Acceptance for Bids and RFP (Form A-22).
- _____ Step 15: If there were negotiations, complete the information and signatures on the Contract Award Offer and Acceptance Form (Form A-20). The contract must be approved and signed by both the General Manager, City Manager and the Chief Financial Officer. (A form included in the Bid Package or Request or Proposals Packages acts as the solicitation, and when signed by both parties, becomes the contract. When this form becomes the formal contract, it must be signed by both the General Manager, City Manager and the Chief Financial Officer).
- _____ Step 16: Send the vendor the Notice to Proceed (Form A-23).
- _____ Step 17: Maintain a correspondence file for correspondence with the vendor. When the project is completed, place correspondence and all other outstanding information and forms in the Procurement Master Project File.
- _____ Step 18: Send two (2) copies of a letter to the vendor to sign in order to certify that all issues have been resolved. Use the Closeout Letter Release from Liabilities, Obligations and Claims form (Form A-24) as a template. Specifically address any

and all issues that were in dispute or not resolved, when the letter is returned, have the General Manager sign the copies, retain one copy for the contract file and mail the second signed copy back to the vendor.

_____ Step 19: Complete all Contract Closeout Procedures (refer to Chapter 7) and fill out the Inspection and Acceptance Closeout Form (Form A-25). The General Manager will ensure that the contract file is complete by finalizing the Master Contract File and completing the Master Contract File Check List (Form A-26).

3.6. Construction Projects

For construction projects worth \$2,000 or more in which Federal funds are used, the Trust must comply with the Davis-Bacon Act, which mandates that minimum prevailing wages must be paid to the various classes of laborers and mechanics for work performed as determined by the Secretary of Labor. The Davis Bacon Act (40 U.S.C. 276a to 276a-7) can be found on the internet at <https://www.govinfo.gov/app/details/USCODE-2001-title40/USCODE-2001-title40-chap3-sec276a/context>

1. Sec. 276a. Rate Wages for laborers and mechanics.
2. Sec. 276a-1 Termination of work on failure to pay agreed wages; completion of work by Government.
3. Sec. 276a-2 Payment of wages by Comptroller General from withheld payments; listing contractors violating contracts.
4. Sec. 276a.-3 Effect on other Federal laws.
5. Sec.276c. Regulations governing contractors and subcontractors.

The Davis-Bacon Act is supplemented by the Code of Federal Regulations (29 CFR part 5). All contractors and subcontractors on construction projects are required to pay prevailing wages. In the Invitation to Bid, include the most current Prevailing Wage Scale for the labor classes required to complete the project. Over forty hours per week, time-and-a-half must be paid. To obtain the most current Prevailing Wages contact the U.S. Department of Labor Wage and Hour Division in Oklahoma City at (405) 231-4158.

Work with the Department of Labor to ensure that contractors and subcontractors are paying each employee the prevailing minimum wage and the appropriate overtime pay. Interviews of the employees must be conducted to ensure compliance. Employees must be paid weekly through check or money order so there is a record of the pay. Good record keeping is critical in the event the Department of Labor audits Trust. Owners of companies who work on site are not required to pay themselves the prevailing wage.

Determine insurance requirements (such as workers comp) if work is to be performed on Trust property.

Follow the steps outlined for Purchases (\$13,000.00 and more) Section to procure a construction contractor and the requirements of the Oklahoma "Competitive Bidding Act of 1974" (see Appendix O).

For information on bonding requirements for construction or facility improvement contracts, see Appendix B: FTA CIRCULAR C 4220. 1F, March 18, 2013 and Appendix D, the Oklahoma "Competitive Bidding Act of 1974". Include the Bidder's Questionnaire: Determination of Responsibility/Non-responsibility in the Bid Package.

4 Bid Package and Request for Proposal Procedures

This chapter identifies recommended elements to be included in Invitation Bid (ITB) Packages and Requests for Proposals (RFP), and also discusses making purchases through the State of Oklahoma's General Services Commission. For ITV's for construction projects estimated to be in excess of \$13,000.00 the elements of the ITB shall be in accordance with the Oklahoma "Competitive Bidding Act of 1974" as well as the elements in this chapter.

4.1 Invitation to Bid Cover Page

Bid packages will contain the following sections.

1. Cover Page including the following items:
 - A. Invitation to Bid Number (assigned by the General Manager) and the item to be procured,
 - B. TRUST mailing address and physical address,
 - C. Date that the Invitation to Bid is issued,
 - D. Number of pages in the Invitation to Bid Packages,
 - E. Bid Closing Date,
 - F. Bid Closing Time (indicate the prevailing local time)
 - G. Pre-Bid Meeting Date,
 - G. Pre-Bid Meeting Time (indicate the prevailing local time),
 - H. General Manager name and address,
 - I. A space for the bidder's name and address,
 - J. Description of Invitation to Bid,
 - K. Place for bidder to acknowledge receipt of addenda, and
 - L. Section for the bidder's signature.
2. Bid and Award Contract Form. This form acts as the solicitation, and when signed by both parties, becomes the contract. This form must be signed by the Chairman of Trust and City's Director of Finance. Include the Type of Contract (See the second page of Justification for Contract Type (Form A-5)
 - A. Affidavit and Penalty of Non-Collusion
 - B. Solicitation, Offer, General Requirements and Award containing the following sections;

- Section A introduction and General Information. Purpose and the history of the service. A general statement of the minimum experience and qualifications required of the contract are also usually included in the introduction. For commodities, state the intended use of the item and the name of the using department.
- Scope. Explain what Trust expects to accomplish from the contract. Give a brief overview of the work required and define the extent of the service to be provided and the contract term.
- Contract Documents
 - Notice, Waiver and Applicable Law
 - Definition of Terms
 - Compliance with Federal Requirements; General Compliance, Wage-Price Regulations.
 - Historically Underutilized Business Enterprise
 - Ineligible Bidders.

3. Instruction to Bidders

A. Pre-Bid Conference

- Pre-Bid Conference Date, Time and Location
- Attendance: Bidder's Responsibility, Not Mandatory
- Accommodations for Persons with Disabilities
- Pre-Bid Conference Agenda

B. Bid Submittal

- Delivery Procedures, Time and Date
- Bid Requirements and Formal number of copies, sealed, bid bond, if required etc.)
- Pre-Award Investigation
- Bid Preparation Costs
- Bid Acceptance Period
- Trade secrets, Confidential Information, and the Oklahoma Public Information Act.
- Modification of Bid
- Withdrawal of Bid

- Unauthorized Conditions
 - Samples
- C. Bid Opening
- Bid Opening Date, Time and Location
 - Bid Opening Postponement, Amendment and Addenda
 - Public Opening of Bids
 - Rejection of Bids
 - Single Bid
- D. Examination of Documents and Requirements
- Examination of ITB Documents
 - Bidder Responsibility to Examine Conditions and Requirements
 - Evidence of Responsibility
- E. Clarification of Requirements
- F. Addenda, and Modification
- G. Protest Procedures
- General Protest Procedures
 - Pre-Bid or Solicitation Phase Protest
 - Pre-Award Protest
 - Post-Award Protest
 - Appeals
- H. Options (if applicable)
- Evaluation of Options
 - Exercise of Options
- I. Award Procedure
- J. Execution of Contract and Bonds
- Time Period for Execution of Contract and Filing Bonds
 - Performance Bond, if required, and Payment Bond, if required.
 - Bond issue and Corporate Surety

- Contract Commencement Date
 - Acceptance
 - Contract Termination for Convenience
 - Contract Termination for Default
 - Effect of Extensions of Time
- K. Delivery of Goods or Services
- Delivery Procedure
 - Delivery Schedule
- L. Service and Parts
- Location of Nearest Technical Service Representative to Trust
 - Location of Nearest Parts Distribution Center to Trust
 - Policy for Delivery of Parts and Components to be purchased for Service and Maintenance.
- M. Payment - Note: The ITB may not include a ceiling budget or price; however, it may specify options that effectively limit the amount of funds Trust will spend.
- Payment Scheduled
 - Sales Tax Exemption
- N. Contractor Qualifications Including Description of Experience
- O. Licenses, Permits, Taxes
- P. Information and Reports
- Q. Motor Vehicle Clauses for In-Plant Quality Assurance Requirements - Include the following elements as needed:
- Quality Assurance Organization
 - Quality Assurance Functions
 - Standards and Facilities
 - Control of Purchases
 - Manufacturing Control
 - Inspection System
 - Resident Inspector

- Remedies and Penalties
- R. Alternative Bid (Permission, if any, to submit alternative bids, including alternative material or design. The alternative bid must be in addition to the basic bid).
- S. Equal Employment Opportunity
- T. Standard Department of Transportation Title VI Assurance
- Compliance with Regulations
 - Nondiscrimination
 - Solicitations for Subcontracts
 - Sanctions for Noncompliance
 - Incorporation of Provisions in Subcontracts
- U. Disadvantaged Business Enterprise (D.B.E) Requirements
- Equal Opportunity to Submit Bid
 - D.B.E Definition
 - D. B.E Requirements for Transit Vehicle Manufactures
- V. Conflict of Interest
- Prohibited Interest
 - Disclosure of Conflict of Interest
 - Interest of Members of or Delegates to Congress
 - Covenant Against Contingent Fees
 - Covenant against Gratuities
- W. Authorization to Bind Submitted of Bid
- Bidder Name, Address 1 Officer Signature
 - Integral Part of the Contract
- X. Factors and Requirements to be considered in the Evaluation of Bids (includeshipping costs and how each factor will be evaluated).
- Y. Prevailing Wage Rates Schedule for construction projects over \$2 000. (See Section 3.6 of this manual for more specific information). Include a reference to the Davis-Bacon Act.
- Z. Notice of award
- AA. Notice of Acceptance of Award

BB. Changes by Contractor

CC. Time and Extensions

DD. Liquidated Damages

- Liquidated Damages Compensation
- Delays Beyond the Contractor's Control

EE. Contractor's Liability

FF. Approval by the General Manger

- Defective or Damaged Work
- Damages
- Penalty for Failure to Complete Contract
- Infringement of Patents

GG. Assignment

HH. Warranty of Tile

II. Compliance with Laws and Regulations

JJ. Miscellaneous Clauses for Motor Vehicles

- Motor Vehicle Safety Standards
- Motor Vehicle Pollution Standards
- Specifications (Omission and Priority)
- Modifications to Contract: Price Adjustment for Regulatory Changes
- Interchangeability
- Materials/Accessories Responsibility
- Service and Parts (Instructors 1 Engineers 1 Documents, and Spare Parts)
- Deliveries (assumption of Risk of Loss, Acceptable)
- Repairs After No acceptance
- Title
- Patents
- Brand Names
- Past Performance

- Financial Stability
- Safety Certification
- Performance Data
- Price for a Complete Coach
- Specified Parts

KK. Motor Vehicle Clauses for Acceptance Test

- Acceptance Test. General
- Pre-delivery Test and Inspections
- Post-delivery operation

LL. Motor Vehicle Clauses for Warranty Basic Provisions

- Warranty Requirements
- Voiding of Warranty
- Exceptions to Warranty
- Detection of Defects
- Scope of Warranty Repairs
- Fleet Defects
- Guarantee and Inspections

MM. MBE Requirements for Transit Vehicle Manufactures

NN. Specifications and Brand Names

- Descriptive Not Restrictive
- Certify Equivalency
- Minor Deviations
- Approved Brand List
- Samples

OO. Federal Transit Administration Master Agreement Clauses, see Appendix F. The complete FTA Master Agreement is located at: <https://www.transit.dot.gov/funding/grantee-resources/sample-fta-agreements/fta-grant-agreements>. (For a copy of the Representation and Certifications: Mandatory Federal Clauses, see the Best Practices Procurement Manual, Appendix A). Use the clauses for the specific type contracts as indicated.

4. General Conditions (Paragraphs 1 through 26)
5. Bidder Unable to Respond Form.
6. Specification: a description of the supplies or services to be furnished in sufficient detail to permit open, full and free competition and should include methods and timing of testing and inspecting. (See Section 4.4 for more details).
 - A. Technical Specification Include the following requirements as needed:
 - Design Features and Requirements: List all design requirements, including materials, manufacturing standards and directions, dimensions, physical characteristics of all kinds, and workmanship standards.
 - Performance Requirements and Characteristics: List all functional needs and performance requirements and include work-related needs which the item must achieve.
 - Other Requirements: List any requirements not covered in the first two sections
 - B. Applicable Documents: List all documents, plans, drawings, specifications, etc., that have been referenced in the specification, including title, edition or issue number, year of publication and publisher or originating organization. If necessary, state where the document(s) are located.
 - C. Definitions that define technical and critical terms where necessary.
 - D. Addenda as issued.
 - E. Legal Documents and Other Documents:
 - Insurance Requirement Affidavit
 - Statutory Payment Bond
 - Statutory Performance Bond
 - Insurance Certificate
 - Contractor Checklist
Required Workman's Compensation Certificate
 - Contract
Bidder's Questionnaire: Determination of Responsibility/Non-responsibility affidavit for payments over \$1,000.00

4.2 Request for Proposals Package

Request for Proposals will contain the following sections. (For additional information on Request for Proposals, see the Best Practices Procurement & Procurement Manual, Chapter 3 section 3.4)

1. Cover Page including the following items:
 - A. RFP Number (assigned by the Trust Procurement Officer) and the item or service to be procured
 - B. Trust mailing address and physical address
 - C. Date that the Request for Proposals is issued
 - D. Number of pages in the Request for Proposal
 - E. RFP Closing Date
 - F. RFP Closing Time (Indicate the prevailing local time)
 - G. Pre-Proposal Meeting Date
 - H. Pre-Proposal Meeting Time (indicate the prevailing local time)
 - I. General Manager name and telephone number
 - J. A space for the proposer's name and address
 - K. Description of Request for Proposal (Project Title)
 - L. Place for proposer to acknowledge receipt of addenda; and
 - M. Section for the proposer 's authorized signature.
2. Solicitation, Offer and, General Requirements and Award containing the following sections:
Instructions to Offerors
 - Proposal Delivery, Time and Date
 - Pre-Proposal Conference
 - Clarification of Requirements
 - Addenda & Modifications
 - Examination of Documents and Requirements
 - Proposal Copies
 - Proposal Preparation Costs
 - Trade Secrets, Confidential Information, and the Oklahoma Public Information Act
 - Disadvantaged Business Enterprise (D.B.E.) Requirements

- Year 20_ Compliance and National Architecture Compliance
- Conflict of Interest
- Anti-Lobbying Provision
- Authorization to Bind Submitted of Proposal
- Evaluation Process
- Selection
- Award Procedure and Contract
- Equal Employment Opportunity
- Competitive RFP Procedures for Architectural and Professional Engineering Services Contracts Costing more than \$13,000 {use only if needed}
- Architecture and Professional Engineering Services Contracts for Services Costing less than \$13,000 {use only if needed}

A. General Requirements

- Intent
 - Project Description: history or background of the item or service to be procured. Describe the project in detail, using department, etc.
 - Purpose of the Project: Describe how Trust will use the product or service
 - Scope of Work; Provide a brief overview of the work required and define the extent of the service to be provided. Describe the functions of the project management team
 - Duration of Contract
 - Options
 - Project Methodology
 - Evaluation Criteria: Proposal Evaluation Criteria Form
 - Proposal Format
3. Price Proposal and Contract Award Offer and Acceptance Form (Form A-20)
 4. Federal Transit Administration Master Agreement Clauses see Appendix F. (the complete FTA Master Agreement located at <https://www.transit.dot.gov/funding/grantee-resources/sample-fta-agreements/fta-grant-agreements>. For copy of the Representations and Certifications; Mandatory Federal Clauses, see the Best Practices Procurement Manual Appendix A). Use the clauses for the specific type contracts as indicated.

4.3 Amending the ITB or RFP

Any bidder in doubt of the true meaning of any part of the specifications or other documents may request an interpretation from the General Manager and the Trust's Procurement Officer. If the General Manager and Procurement Officer finds that the interpretation is substantive or that a mistake has been made, the Procurement Officer will issue a written addendum to all bidders that received the original Invitation to Bid or Request for Proposal. The addendum will become part of the Invitation to Bid Package or Request for Proposal and will have the same binding effect as provisions of the original document. No verbal explanations or interpretations will be binding. In order for a request for interpretation to be considered, the request must be submitted in writing and must be received by the General Manager no later than five (5) days prior to the bid or proposal due date. LATS does not assume responsibility for the receipt of the addendum went to bidders or proposers. A copy of all addenda issued must be signed and returned with the bidder's bid or proposal. The bidder must also acknowledge receipt of the addenda by initiating the appropriate place on the Invitation to Bid or Request for Proposal cover sheet.

4.4 Specifications

Specifications provide clear guides to purchasing and provide vendors with firm criteria of minimum product or service acceptability. A specification is a concise statement of a set of requirements to be satisfied by a product, materials, or a process indicating, whenever appropriate, the procedure by means of which it may be determine whether the requirements given are satisfied. As far as practicable, it is desirable that the requirements be expressed numerically in terms of appropriate units together with their limits. Specifications are intended to serve as a means of assuring that the items purchased have the desired quality and performance characteristics.

4.4.1 Specification Criteria

A good specification has four characteristics

1. It sets the minimum acceptability of the good or service. The term "minimum acceptability" is key since the vendor must know the minimum standard in order to determine what to provide. Too high a standard means tax dollars will be wasted. Too low a standard means the good or service will not meet the user's expectations. Standardization is the process of establishing agreement on the characteristics and quality of the products to be purchased. The justification for any standardization program are, larger quantities of fewer good categories, more economical buying, flexibility of inventory, reduction of purchasing time, lower department operating costs, and reduced inventories.
2. It should promote competitive bidding. The maximum number of responsible vendors should be able to bid to the specification. Restrictive specifications decrease competition.

3. It should contain provisions for reasonable test and inspection for acceptability of the good or service. The methods and timing of testing and inspecting must be indicated in the specification. Whenever possible, test should refer to nationally recognized practices and standards.
4. It should provide for an equitable award to the lowest responsible and responsive bidder. The buyer obtains goods or services that will perform to expectation, and the vendor is able to provide the goods or services at an equitable agreed price.

Use the following checklist to ensure that a specification meets the four criteria stated above.

- It is simple, consistent, and specific enough that a loophole will not allow a bidder to evade any of the provisions and thereby take advantage of competitors or LATS.
- The specification incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured.. The description may include a statement of the qualitative nature of the material, product or service to be procured, and when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use and Prohibition of exclusionary or discriminatory specifications.
- Detailed product specifications should be avoided if at all possible.
- It identifies, when possible, several brand names or specific already on the market. When brand names are used, the bid shall clearly indicate that the intent is not to restrict competition and that other brands and models of the same general type and function will be acceptable. A "brand name or equal" description may be used only when LATS cannot provide an adequate specification or more detailed description without performing an inspection and analysis in time for the acquisition under consideration. Further, if a "brand name or equal" is used, the specification must carefully identify the minimum needs and clearly set forth those salient physical and functional characteristics of the clause to safeguard against restricting competition. Specifications shall not be restrictive to a single brand vendor or be labeled "NO SUBSTITUTE". If such restriction is necessary, a sole source purchase is involved and requires a detailed justification that specifies information regarding the peculiarities of the purchase, such as supplier's unique capability, critical time schedules, which cannot be met by other suppliers, or patent/copyright considerations. (For information on Sole Source Procurement, See Section 3.5) (See the Best Practices Procurement Manual, Section 2.5.1 for more information on Brand Names and Approved Equals).
- Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals 3
-
- Allow for reasonable tolerances. Unnecessary precision is expensive.
- Use and maintenance of prequalification lists, if permitted
- The specification is as fair to the vendor as possible.
- Several bidders are capable of meeting the specification for the sake of competition.

- The specification is clear. Misunderstandings are expensive. The specification must be understandable to both the vendor and LATS.

4.4.2 Where to Obtain Specifications

LATS may have to write its own specifications. However, it is recommended that LATS coordinate with the City of Lawton to obtain existing specifications, at least to get some ideas.

4.4.3 Types of Specifications

The following are the most commonly used types of specification. A single specification may be a combination of two or more of these types, especially the first two,

1. Design Specification - detailed descriptions of a good or service, including such things as details needed for the provider to produce construction projects and custom produce items and for may services.
2. Performance Specifications - where the goods or services are described in terms of required performance. They may include such details as required power, strength of material, test methods and standards of acceptability and recommended practices.
3. Combination Specifications - contains elements of both design and performance specifications. Some features of each are included to allow a vendor to use ingenuity to meet performance needs and also to require certain necessary design characteristics. This is probably the most common type of specification.
4. Brand-Name Specifications - list a good or service by brand name, model and other identifying specifics, in order to limit the bidding to a single preferred product. Since this type of specification discourages competition, it should not be used unless the item is the purchasing replacement parts where only the brand name item will work.
5. Brand-Name or Equal Specifications - similar to brand-name specifications, except that products equal to the characteristics of the named brand are specified as acceptable.
6. Qualified Products List Specifications - based on a list of products, identified by manufactures' name and model number, which are the only items that will be acceptable. These are used when quality is such a critical factor and testing so lengthy or expensive that LATS wants to stay with proven products. The list is prepared by testing products, either in the lab or in daily use. Items may be added to the list by the vendor demonstrating their quality in comparison to those on the list.
7. Approved Products List Specifications - See Qualified Products List Specification.

8. Standard Specifications - a single specification for one or more goods/service that are ordered on recurring basis and that have the same general purpose. The same specification is used each time an order is placed, or bids are advertised. Examples are office supplies, paper, janitorial supplies and copier service contracts. Standardized specifications will usually be more complete and more detailed than one-time specifications.
9. Qualified Bidder - Specifying the minimum qualifications that a bidder must meet in order to be eligible for award is used primarily for major construction projects and service contracting. Experience, references, qualifications, and evidence of financial stability required of each bidder must be completely described. Avoid using qualification criteria that are not based on contractor's ability to provide the service or that limit competition.

4.4.4 Specification Writing

Try to obtain an existing specification before starting to write a new one, you will almost always have to do some specification writing or rewriting. This section will help you accomplish this task as simply and efficiently as possible.

_____ Step 1: Determine that an acceptable specification is not available and a new one must be written or an old one must be revised.

_____ Step 2: Gather data for the specification. Sources are:

- Using department - determine their needs and requirements
- Vendors and manufacturers
- Trade associations for that commodity, service or product
- Other local government, state, federal and Canadian specifications and standards
- Private or public standards - writing organizations

_____ Step 3: Analyze and evaluate the data based on the government's requirements.

_____ Step 4: Decide on parameters for the item of service and set minimum level of acceptance so that the items purchased will meet the needs of LATS.

_____ Step 5: Write the proposed specification. Use a standard format for all specifications to ensure uniform preparation and to promote easier understanding by users of the specification.

- Specifications should always be written to encourage competition by containing as little restrictive language as possible.
- Use U.S Industry and national standards and measures where appropriate to describe the items.

_____Step 6: Where applicable, and especially for standardized specifications, circulate the specification to:

- All potential users
- Buyers in the purchasing office
- Request their comments. Users should comment on unsatisfactory aspects of the specification to avoid protest later.

_____Step 7: Analyze and evaluate comments on the proposed specification:

- Tabulate recommended changes
- Evaluate the effect on proposed specification
- Discuss with users and buyers

_____Step 8: Change proposed specification, and if necessary, re-circulate new proposed specification. Go back to Step 6, or if only minor changes, prepare final version.

_____Step 9: Assign specification number.

5 Dispute and Protest Procedures

According to FTA Circular 4220.1F (Chapter 7), "The Common Grant Rules assign responsibility to the recipient for resolving all contractual and administrative issues arising out of their third party procurements, including source evaluation and selection, including protests of awards, disputes, and claims using good administrative practices and sound business judgment. The Federal Transit Administration (FTA) also encourages the recipient to use appropriate alternative dispute resolution procedures. Neither FTA nor the Common Grant Rules relieves the recipient of any responsibility under its contracts to resolve disagreements that may arise in the course of contract formation or contract administration." In all instances, Trust shall disclose information regarding protests to FTA via memorandum.

Potential bidders, contractors, or proposers can lodge written protest as a remedy to correct a perceived wrong that may have occurred during the procurement process. Trust will accept and review the protest with the understanding that the integrity of the procurement process may be at stake. Trust will use the procedures for contract dispute resolution to resolve dispute in the attempt to avoid FTA involvement or litigation.

1. All protest lodged by potential or actual bidders, contractors, or proposers must be made in writing and contain the following information.
 - Name, address, and telephone number of the protester.
 - Identification of the solicitation or contract number and title.
 - A detailed statement of the protest's legal and factual grounds, including copies of relevant documents.
 - Identification of the issue(s) to be resolved and statement of what relief is requested.
 - Argument and authorities in support of the protest.
 - A statement that copies of the protest have been mailed or delivered to all interested parties in the Invitation to Bid or Request for Proposal process. In the case of Request for Proposals, the General Manager shall direct the protester to mail or delivery the protest to relevant parties.

Mail the protest to:
General Manager, LATS
P.O. Box 286
Lawton, OK. 73502

Or

Overnight or hand delivery the protest to:
General Manager, LATS
609 SW Bishop Rd.
Lawton, OK. 73505

Faxed or e-mail protest will not be accepted.

The LATS General Manager or Trust's Procurement Officer will respond, in written detail, counterclaims to each substantive issue raised in the protest. The LATS General Manager or Procurement Officer will also perform the following analysis:

- Price Analysis or Cost Analysis for each claim.
- Technical Analysis to determine the validity of the claim(s) and determine the appropriate response(s)
- Legal Analysis to consider all the factors available after the price, cost and technical analyses have been conducted to determine the contractor's LATS, and FTA's legal positions

(For more information on developing a position and how to handle liquidated damages, refer to the Best Practices Procurement & Procurement Manual, 5.5.1 "Steps to be Taken Prior to Negotiations.")

LATS's General Manager has the authority to render the final determination regarding the protest, unless appealed to the Trust. The Federal Transit Administration will entertain appeals only in cases stated below in Section 5.4.

5.1 Pre-Bid or Solicitation Phase Protest

A Pre-Bid or Solicitation Phase Protest must be received in writing by LATS General Manager a minimum of fifteen (15) full work prior to the bid opening or proposal due date. If the written protest is not received in the time specified, the award may be made following normal procedures, unless the General Manager, upon investigation, determines that remedial action is required on the grounds of fraud, gross abuse of the procurement process, or otherwise indicates substantial prejudice to the integrity of the procurement system, and said action should be taken.

Within three (3) workdays from the time the protest is received, the LATS General Manager will notify all potential bidders, contractors, or proposers that a protest has been lodged and the nature of the protest. The General Manager will respond to the protest in writing within ten (10) working days from the time the protest was received. If the General Manager decides to withhold that award acceptance from those bidders, contractors, or proposers whose bids or proposal might become eligible for award. This extension for award acceptance must be with the consent of sureties, if any, in order to avoid to the need for re-advertising.

LATS will not make an award prior to seven (7) working days after the protest is resolved, or if the protest has been filled with FTA during the protest negotiation period, unless LATS determines that:

- The items or services to be procured are urgently required
- Delivery or performance will be unduly delayed by failure to make the award promptly; or
- Failure to make the award will otherwise cause undue harm to Trust or the federal government

- The General Manager will document this action and give written notice of the decision to proceed with the award to the Protester, and to other parties where deemed necessary.

5.2 Pre-Award Protest

Protests may be lodged after the Bid Opening or Close of Request for Proposal deadline and prior to Notice of Award. Within three (3) workdays from the time the protest is received, the LATS General Manager will notify all potential bidders, contractors, or proposers that a protest has been lodged and the nature of the protest. The General Manager of Trust Procurement Officer will respond to the protest in writing within five (5) working days from the time the protest was received. If the General Manager decided to withhold the award pending the resolution of the protest, the General Manager may request a time extension for award acceptance from those bidders, contractors, or proposers whose bids or proposal might become eligible for award. This extension for award acceptance must be with the consent of sureties, if any, in order to avoid the need to re-advertise.

LATS will not make an award prior to seven (7) working days after the protest is resolved, or if the protest has been filled with FTA during the protest negotiation process unless LATS determines that:

- The items or services to be procured are urgently required;
- Delivery or performance will be unduly delayed by failure to make the award promptly; or
- Failure to make the award will otherwise cause undue harm to Trust or the Federal Government

The General Manager will document this action and give written notice of the decision to proceed with the award to the Protester, and to other parties where deemed necessary.

5.3 Post-Award Protest

The General Manager will receive protest in writing within three (3) working days after the Notice of Award and letters of notification should have been received by bidders or proposers. Upon receipt of a protest, the General Manager shall notify the bidder or proposer awarded the contract. The General Manager or Trust's Procurement Officer will render a determination to proceed with the contract or suspend the project until the protest is resolved. The General Manager will respond to the protest in writing within five (5) working days receipt of the protest.

5.4 Appeals

The General Manager has the authority to settle any dispute and resolve the protest. The General Manager may solicit written responses regarding the protest from other parties. If this course of action does not result in a satisfactory resolution the Protester may appeal in writing to the Trust within three (3) working days after the General Manager issues a final decision. The Trust will issue a decision within ten (10) working days after receipt of the appeal.

LATS may elect to involve legal counsel or arbitration and mediation consultants to resolve the issue(s).

The Protester has the right to appeal in writing to the Federal Transit Administration (FTA) if:

- The Protester has exhausted all administrative remedies with LATS, and
- LATS has failed to follow its protest procedures or failed to review a complaint or protest.
- The Protester's appeal must be received by the FTA Region VI Office within five (5) working days of the date the Protester knew or should have known of the violation.

Office of Operations and Program Management
U.S. Department of Transportation
Federal Transit Administration Region VI
819 Taylor Street, Suite 8A36
Ft. Worth, Texas 76102
Phone (817) 978-0550

When the Protester sends an appeal to FTA, the Protester must also send copy of the appeal to the LATS General Manager within the same time frame. In the event of a protest, the General Manager will contact FTA to check whether or not an appeal has been made.

Violations of Federal law or regulations will be handled by the complaint process stated within that law or regulations. Violations of State or local law or regulations will be under the jurisdiction of state or local authorities.

In the event that data becomes available that was not previously known, or there has been an error of law or regulations, LATS will grant an allowance for request for reconsideration.

5.5 Notification of FTA in Dispute Matters

The FTA has a vested interest in the settlement of any dispute, breach, default, or litigation involving the Project (FTA Master Agreement <https://www.transit.dot.gov/funding/grantee-resources/sample-fta-agreements/fta-grant-agreements>). Accordingly:

1. Notification to FTA. The Recipient agrees to notify FTA of any current or prospective major dispute, breach, default, or litigation that may affect the Federal Government's interests in the Project or the Federal Government's administration or enforcement of Federal laws or regulations. If the Recipient seeks to name the Federal Government as a party to litigation for any reason, in any forum, the Recipient agrees to inform the FTA before doing so.
2. Federal Interest in Recovery. The Federal Government retains the right to a proportionate share, based on the percentage of the Federal share awarded for the Project, of any proceeds derived from any third party recovery, except that the Recipient may return any liquidated damages recovered to the Project Account in lieu of returning the Federal share to the Federal Government .
3. Enforcement. The Recipient agrees to pursue all legal rights available under any third-party contract
4. FTA Concurrence. FTA reserves the right to concur in any compromise or settlement of any claim involving the Project and the Recipient.
5. Alternative Dispute Resolution. FTA encourages the Recipient to use alternative dispute resolution procedures, as may be appropriate.

FTA Circular 4220.1F, Chapter 7, Section 1a(2)(a) requires grantees to notify FTA of any current or prospective litigation or major disputed claim in excess of \$100,000 relating to any third-party contract. This Circular also requires grantees to provide a list of all outstanding claims exceeding \$100,000 and a list of all claims settled during the reporting period as part of each quarterly progress report. A brief description and reasons for each claim should accompany this list.

For information on circumstances where Trust is required to secure FTA review and concurrence in a proposed claim settlement before using Federal funds, refer to the Best Practices Procurement & Procurement Manual, Chapter 5.5 "Claims, Grievances and Other Disputes with Contractors."

6 Contract Negotiation

The General Manager shall be responsible for all negotiations with proposers, and prospective contractors and shall obtain the necessary assistance from personnel involved in the procurement project and legal counsel.

6.1 Competitive Negotiation

In order to procure Professional/Personal Services, Technology, and Architectural/Engineering (A&E) services, LATS will issue Request for Proposals. All proposals except for A&E shall require both technical and cost proposals. LATS shall solicit proposals from a minimum of three sources to ensure adequate competition. LATS reserves the right and sole discretion to cancel the solicitation, without penalty. LATS reserves the right to reject all proposals and re-solicit or cancel the procurement if this action is considered to be in LATS best interest. It is critical to thoroughly document all correspondence and negotiations.

If procuring Architectural or Engineering services, any confidential information LATS receives shall be treated as confidential. All technical data received in response to RFPs shall also be treated as confidential except for data contained in the awarded contract.

The LATS Proposal Evaluation Team for the specific procurement will convene to evaluate and rank the proposals. The Evaluation Team will consist of the City Manager or their designee, LATS General Manager, Trust Procurement Office, If Architectural or Engineering services are to be procured include the Director of Public Works or his designee. If needed the Evaluation Team may conduct oral interviews with the finalists. The questions to be asked during the interviews shall be sent to the finalists a minimum of three (3) days prior to the interviews. The Evaluation Team shall then finalize the selection of proposers in descending order for the document file.

The Evaluation Team shall then enter into detailed and carefully documented negotiations with each of the finalists. The negotiations shall consist of addressing the total proposed effort and contract terms and conditions. Avoid "auctioning" of prices (allowing vendors to lower their prices below their competitor's and so on). Complete the Memorandum of Negotiations (Form A 19). After negotiating with each proposer, establish a schedule and deadline for the submission of "Best and Final Offers" which may include Technical and/or Cos+Price Proposals.

Upon receiving the "Best and Final Offers", reconvene the Evaluation Team. Perform a Cost Analysis on the submitted contract modifications and decide which proposer should receive the contract award based either upon the final offers or the initial offers. Complete the procurement steps listed in section 3.4.1. Document the Evaluation Team's methodology to select a proposal.

If the Evaluation Team is unable to reach an agreement with the proposers, assess the reasons and either amend the Request for Proposals and send the amendments to the proposers with whom the Evaluation Team is negotiating, or formally cancel the solicitation and start over with a new Request for Proposals.

6.2 Noncompetitive Negotiation

Whenever LATS performs a "Sole Source Procurement", noncompetitive negotiation is involved. After receiving only a single bid or determining that competition is inadequate, discuss with the General Manager about entering into negotiations with the single bidder in order to establish a fair and reasonable price. Negotiate the final terms and conditions of the contract using the negotiation procedures outlined in the competitive negotiation method above. These negotiations can be more pointed and open because there is not competitive environment involved - the integrity of a procurement process is not involved.

In order to "quality" to justify sole source, the FTA has established the following requirements:

1. The item must be an associated capital maintenance item defined as a replacement part or component for rolling stock that can be purchased only from the original manufacturer, and the item costs at least 0.5% of the vehicle price. Requisite certifications must be made in advance to FTA and the price must be determined to be reasonable based on a cost analysis.
2. The item must be procured directly from the original manufacturer or supplier of the item to be replaced.
3. Prior to execution of the contract, you must first certify in writing for the master file:
 - That such manufacturer or supplier is the only source for such item, and
 - That the price of such item is not higher than the price paid for such item by like customers

7 Contract Closeout Procedures

In order to comply with the Closeout requirements of 49 CFR Part 18.50, grantees must obtain the required information, reports, final invoices, and other documentation as appropriate from their third-party contractors as part of the contract closeout process. The Contract Closeout Procedures ensure that contracts are both "physical complete" and "administratively complete".

1. The vendor has rendered all services and has fulfilled the contract.
2. The vendor has delivered all articles or services and LATS has accepted them, including such things as reports, spare parts, warranty documents, and proof of insurance (where required by the contract terms). These deliverable items may not have been priced as discrete pay items in the contract, but they are required deliverables, and the contract is not physically complete until all deliverables are made.
3. LATS has made all payments on the services or articles including the Final Payment.
4. The Contractor has formally released LATS from all liabilities, obligations, and claims.
5. All administrative actions have been completed including the settlement of disputes, protest, and litigation; the final overhead rates have been determined; funds have been released; and property has been accounted for or disposed of property.
6. All documentation has been properly filed.

More information on contract closeout procedures used by the Federal Government for its contracts may be found in FAR Part 4 .804, Closeout of Contract Files FAR Part 42.15, Contractor Performance Information, discusses the preparation of Contractor Performance Reports. (The Federal Acquisition Regulation (FAR) website is located at <https://www.acquisition.gov/browse/index/far>)

7.1 Final Payment

LATS will make the Final Payment for the article or service once the contract is complete and LATS has accepted the work. The Final Payment will be made after the Contractor presents a properly executed voucher or invoice that shows the dollar amount agreed upon in the contract less any amounts previously paid. Before authorizing the final payment, the LATS General Manager or Trust's Procurement Officer must prepare a memorandum stating that all required inspections have been performed and certifying to the satisfactory completion of the contract. Pay careful attention to documents that are notoriously problematic, such as warranties. LATS may wish to make warranty documents a pay item in contracts when the contract pay items are being established. This action will motivate the Contractor to deliver the documents in a timely manner and preclude a dispute as to the proper amount that should be paid for these items.

If, and only if, the contract contains a clause that Final Payment could be withheld until the articles or service under the contract are completed, finalized, and accepted, LATS may withhold the final payment until both parties agree in writing that the contract has been completed. Most payment clauses require the Contractor to furnish and execute a release of claims. This is generally used if subcontractors are involved and ensures that all sub-claims have been paid and resolved. A General Release at the time of the Final Payment effectively bars all existing Contractor claims, including pending claims and known and unknown claims. The Contractor may reserve the right to Specific Claims by accepting those claims at the time that the Release is executed. The Final Payment also ends LATS's ability to file claims against the Contractor except in the event of defects, fraud, or gross mistakes.

7.2 Post-Performance Audit

A close-out audit may be required to determine the final provisional overhead rates in cost reimbursement contracts. In addition to the overhead costs, there may also be some elements of costs that need audit examination. This audit cannot be conducted until the Contractor has completed the contract and submitted a final invoice. The final settlement of claims may create additional audit issues.

7.3 Contract Closeout Checklist

The General Manager uses a Contract Closeout Checklist that list all the administrative steps required to close out a contract. Different checklists may be developed for different types of contracts given the different requirements for the various contracting situations, e.g. commodities, services, construction, cost-type contracts, etc.

It is generally the responsibility of the General Manager to establish that the work under a contract has been completed and the contract is ready for closeout. Upon determining that the work is complete, the General Manager prepares a checklist showing all the contract deliverables and submissions and indicating on the checklist that all submissions and deliverables have been reviewed, inspected and accepted. The General Manager sends a memorandum to the Trust's Procurement Officer indicating that the contract is complete, and all required deliverables have been inspected and accepted.

To closeout routine purchase orders and contracts for commodities and other commercial products, the General Manager ensures that the item end user has inspected and accepted the deliverable item as being in conformance with the purchase order/contract specifications. Complete the Inspection and Acceptance Closeout Form (Form A-25) and include it with the file attesting to the contractor's delivery of all contract end items, including any descriptive literature or warranty documentation.

Contracts for personal services, complex equipment, rolling stock, construction, and other one-of-a-kind items require a number of steps to effect an administrative closeout. Major elements of the closeout process, and documentation, might include:

1. Resolution of all contract changes, claims, and final quantities delivered.
2. Determination/recovery of liquidated damages.
3. Review of the insurance claim file by counsel/insurance specialist to determine if funds need to be withheld from final payment to cover unsettled claims against the contractor. For all contracts requiring the Contractor to maintain insurance for its products or services (e.g. professional liability or product liability insurance), the General Manager should obtain proof of insurance from the Contractor as part of the closeout process. This documentation should be submitted to the Trust's Procurement Officer for approval prior to final payment to the Contractor. The Trust will be required to maintain these documents as active files until such time as the insurance requirement ceases under the terms and conditions of the contract; i.e. these insurance terms will continue past (survive) the final contract payment.
4. Settlement of all subcontracts by the prime contractor.
5. Performance of all inspections (and acceptance test if any) by the grantee's project manager, with appropriate documentation.
6. Conduct a cost audit for cost-reimbursement contracts and resolve questions costs, if any
7. Generation of a Contract Performance Report. A performance report may be generate if the General Manager thinks that such a report would be helpful in conducting future procurement.
8. The submissions of all required documentation by the Contractor, including items such as:
 - Final reports
 - Final payroll records and wage rate certifications
 - Spare parts list
 - Manufacturer's Warranties and Guarantees. The contract specifications may require that individual warranties or guarantees be furnished for various installed equipment or building systems. For each completed contract requiring warranties, the Project Manager should develop a Warranty and Guarantee Register, which is a status form listing:
 - i. Each individual item of equipment and system for which a warranty or guarantee is specified (roofing, doors, sealants, etc.);
 - ii. The pertinent section in the contract specification;
 - iii. The name of the company providing the warranty
 - iv. The expiration date of the warranty; and
 - v. The address of the providing company
 - Final corrected shop drawings
 - Operation and maintenance manuals
 - Catalogues and brochures

- Invention disclosure (if applicable)
- Federally-owned property report (if there was Government-furnished property)
- Resolution of final quantities (construction contracts)
- Final invoice
- Consent of Surety to release final payment to Contractor
- Contractor's Affidavit of Release of Liens
- Contractor's General Release (releasing the grantee from any further liabilities/claims under the contract). As a part of the contract closeout the General Manager or the Trust's Procurement Officer must send the Contractor a closeout letter that includes the Contractor's General Release. This document must be a standard statement prepared by the LATS' legal counsel for use in all contract amount agreed to by both parties, the Contractor releases the grantee from any and all claims of every kind arising directly or indirectly out of the contract. The release may also contain a certification that the contractor has paid its subcontractors and suppliers for all their labor, materials, services, etc. furnished under the contract. The release is to be signed by a corporate official authorized to bind the Contractor.

The General Release is important to obtain prior to final payment because it assures the grantee that there will be no further claim from the Contractor once the final payment has been made. The Trust should have the release reviewed by its legal counsel if the Contractor makes any changes to the Trust's standard release language that was sent to the Contractor for signature. It is necessary for the Trust and the Contractor to have resolved all open issues of a financial nature prior to the execution of the release (change orders, claims, liquidated damages etc.), and this resolution of all outstanding claims is an important step in the contract closeout process.

To prevent a construction contractor from "walking away" from a project that is almost complete by refusing to sign a General Release and forgoing final payment, Trust should anticipate this possibility by carefully estimating the amount of detainment in such a way that it represents twice the amount of the punch list work and undelivered items (manuals, drawings, spare parts, etc.). A contractor may "walk away" when they lack sufficient financial incentive to complete the contract; e.g. if the punch list is large and there is very little money left in retainment with LATS, or a when they may have been awarded another contract which requires the reassignment of this personnel to another job.

7.4 Pre-Award and Post Delivery Audits for Rolling Stock Purchases

This section addresses Pre-Award and Post-Delivery Audits of Rolling Stocks as required by 49 CFR Part 663 for more information, refer to; <https://www.govinfo.gov/app/details/CFR-2010-title49-vol7/CFR-2010-title49-vol7-part663/context>.

7.4.1 The Pre-Award Buy America Certification Requirement

Buses to be purchased must fall into one of two categories under Compliance with Buy America and

1. Buy-America Complaint Buses: Buses meet the sixty (60) percent minimum domestic content and United States final assembly requirement established in the Buy America Rule. In the pre-award review process, LATS, or a duly appointed analyst, must review the following proposed manufacture's Buy America information.
 - A listing of bus components and subcomponents that will be used to calculate the percent domestic content. (Each components and subcomponent on the list must be identified by manufacturer, country of origin, and cost in either a dollar or percentage format. Component manufacturing costs and final assembly costs are not to be included when calculating the percent domestic content of the bus. The analyst must verify that the buses to approximate the total component cost and thus the percentage base that the manufacturer used to calculate the domestic cost contribution for each item listed in the manufacturer's information), and proposed final assembly location.
 - The analyst must identify the final assembly must be listed such as welding, subassembly, component installation, painting, etc. and
 - The proposed total cost of final assembly.

After completing the steps above, the analyst must complete the following Pre-Award Buy America Compliance Certification and keep it on file for future FTA reviews.

PRE-AWARD BUY AMERICA COMPLIANCE CERTIFICATION

As required by Title 49 of the CFR, Part 663- Subpart B, The City of Lawton Transit Trust Authority, dba Trust, is satisfied that the (number and description) _____
_____ of buses to be purchased from (the manufacturer) _____ meet the requirements of Section-16..5.(bl_3) of the Surface Transportation Assistance Act of 1982, as amended. The recipient _____ or its appointed analyst _____ (analyst- not the manufacturer or its agent), has reviewed the documentation provided by the manufacturer, which lists (1) the proposed component and subcomponent parts of the buses identified by the manufacturer, country of origin, and cost; and (2) the proposed location of the final assembly point for the buses, including a description of the activities that will take place at the final assembly point and the cost of final assembly.

Printed Name: _____

Date: _____

Signature: _____

Title: _____

2. Buy-America-Exempt Buses. Some manufacturer's buses may be eligible for an FTA waiver exempting the buses from the requirements. If a waiver does exist for the buses, Trust must:
 - Obtain a Buy America waiver letter from the FTA, and
 - Complete the Pre-Award Buy America Exemption Certification below, and
 - Keep the Buy America certification and FTA waiver letter on file for future FTA reviews.

PRE-AWARD BUY AMERICA EXEMPTION CERTIFICATION

As required by Title 49 of the CFR, Part 663 - Subpart B, The city of Lawton Transit Trust Authority, dba Trust, certifies that there is a letter from FTA that grants a waiver to the (number and description)

_____ of buses to be purchased from (the manufacturer) _____ from the Buy America requirements under Section 165(b)(1), (b)(2), or (b)(4) of the Surface Transportation Assistance Act of 1982, as amended.

Printed Name: _____

Date: _____

Signature: _____

Title: _____

7.4.2 The Pre-Award Purchaser's Requirements Certification

The Pre-Award Purchaser's Requirements Certification is intended to eliminate those manufacturers that appear irresponsible and/or incapable or complying with Trust' solicitation specifications. To comply with the certification, the Trust or the designated analyst must review and approve:

- That the manufacturer's bid specifications are in compliance with the Trust's solicitation specifications including approval of any approved equals; and
- That based upon the proposed manufacturer's qualifications (quality control measures, previous customers, etc.) that the proposed manufacturer will be capable of meeting the specifications
- Upon completion of the review, the General Manager should complete the PreAward Purchaser's Requirements Certification below and keep it on file for future FTA reviews.

PRE-AWARD PURCHASER' S REQUIREMENT CERTIFICATION

As required by Title 49 of the CFR, Part 663- Subpart B, The City of Lawton Transit trust Authority, dba Trust, certifies that the (number and description) _____
of buses to be purchased from (the manufacturer) _____
are the same product described in Trust's solicitation specification and that the proposed manufacturer is a responsible manufacturer with the capability to produce a bus that meets the specifications.

Printed Name: _____

Date: _____

Signature: _____

Title: _____

7.4.3 The Pre-Award Federal Motor Vehicle Safety Standards (FMVSS) Certification Requirement

This section discusses procedures that The Trust must follow to demonstrate compliance with the FMVSS certification requirement. Most buses must comply with the FMVSS regulations.

Trust must do the following to comply:

- Obtain the FMVSS certification sticker information from the manufacturer, and
- Complete the Pre-Award FMVSS compliance certification below; and
- File the FMVSS certification for future FTA reviews.
- Some buses may not be subject to FMVSS regulations as explained in Title 49 of the Standards .
"If the buses are not subject to the FMVSS regulations, Trust must:
 - i. Obtain the manufacturers' certified statement indicating that the contracted buses will not be subject to the FMVSS regulations; and
 - ii. Complete the Pre-Award FMVSS exemption certification below; and
 - iii. File the FMVSS certification or future FTA reviews.

PRE-AWARD FMVSS COMPLIANCE CERTIFICATION

As required by Title 49 of the CFR, Part 663 - Subpart D, the City of Lawton Transit Trust Authority, dba Trust, certifies that it received, all the Pre-Award stage, a copy of (the manufacturer) _____
_____'s, self-
certification information stating that the (number and description of buses) _____
_____ will comply with the relevant Federal Motor Vehicle Safety
Standards issued by the National Highway Traffic Safety Administration in the Title 49 of the Code of
Federal Regulations, Part 571 .

Printed Name: _____

Date: _____

Signature: _____

Title: _____

PRE-AWARD FMVSS EXEMPTION CERTIFICATION

As required by Title 49 of the CFR, Part 663 - Subpart D, The City of Lawton Transit Trust Authority, dba Trust. Certifies that it received, at the Pre-Award stage, a statement from (the manufacturer)

_____ indication that the (number and description of buses) _____

_____ will not be subject to the Federal Motor Vehicle Safety Standards issued by the National Highway Traffic Safety Administration in the Tile 49 of the Code of Federal Regulations, Part 571.

Printed Name: _____

Date: _____

Signature: _____

Title: _____

7.4.4 The Post Delivery Buy America Certification Requirement.

LATS will adhere to the following procedures to demonstrate compliance with the Post Delivery Buy America Certification Requirement. The buses received must fall into one of the two categories under this requirement. If LATS is satisfied that the Buy America information has not change since the Pre-Award review, use the Pre-Award documentation for the Post Delivery review. If LATS is doubtful that this is the case, perform another review.

1. Buy-America Compliant Buses: Buses meet the sixty (60) percent minimum domestic content and United States final assembly requirement established in the Buy-America Rule. Before certifying that the purchased buses meet these requirements, LATS, or a duly appointed analyst, must review the manufacturer's Buy America information.
2. A listing of bus components and subcomponents used to calculate the percent domestic content. (Each component and subcomponent on the list must be identified by manufacturer, country of origin, and cost in either a dollar or percentage format. Component manufacturing costs and final assembly costs are not to be included when calculating the percent domestic content of the bus. The analyst must verify that the buses contain a minimum of sixty (60) percent domestic products, by cost, by reviewing the component and subcomponent listed and review the final assembly cost. The analyst subtract the final assembly cost from the price of the buses to approximate the total component cost and thus the percentage base that the manufacturer used to calculated the domestic cost contribution for each item listed in the manufacturer's information); and
3. The actual final assembly location which should have been within the United States; and
4. Activities that took place during the final assembly such as welding, subassembly, component installation, painting, etc.; and,
5. The actual total cost of final assembly.

After completing the steps listed above, the analyst must complete the following Post-Delivery Buy America Compliance Certification and keep it on file for future FTA reviews.

POST-DELIVERY BUY AMERICA COMPLIANCE CERTIFICATION

As required by Title 49 of the CFR, Part 663 - Subpart C, The City of Lawton Transit Trust Authority, dba Trust, certifies that it is satisfied that the (number and description) _____

_____ of buses received from (the manufacturer) _____

meet the requirements of Section 165(b)(3) of the Surface Transportation Assistance Act of 1982, as amended. The recipient _____, or its appointed analyst _____ reviewed the documentation provided by the manufacturer, which lists (1) actual component

Printed Name: _____

Date: _____

Signature: _____

Title: _____

Buy America-Exempt Buses. Some manufacturer's buses may be eligible for an FTA waiver exempting the buses from the requirements. If the buses are exempt, Trust must:

1. Obtain a Buy America waiver letter from the FTA.
2. Complete the Post-Delivery Buy America Exemption Certification below; and
3. Keep the Buy America certification and FTA waiver letter on file for future FTA reviews.

POST-DELIVERY AMERICA EXEMPTION CERTIFICATION

As required by Title 49 of the CFR Part 663 - Subpart C, The City of Lawton Transit Trust Authority, dba, Trust, certifies that there is a letter from FTA that grants a waiver to the (number and description) _____
_____ of buses received from (the manufacturer) _____, from the Buy America requirements under Section 165 (b)(1), (b)(2), or (b)(4) of the Surface Transportation Assistance Act of 1982, as amended.

Printed Name: _____

Date: _____

Signature: _____

Title: _____

7.4.5 Post-Delivery Purchaser's Requirements Certification

The Purchaser's Requirements Certification is intended to help protect LATS by ensuring that the buses received are built to contract specifications. The process of certifying more than ten (10) buses is more rigorous than certifying ten (10) or fewer buses.

1. Send a resident inspector to the manufacturer's final assembly facility. The resident inspector must complete a manufacturing report containing any information supporting or refuting manufacturer claims regarding its capabilities and specifications. For buses assembled in multiple stages (such as body-on-chassis buses), the resident inspector is required to visit the final-stage manufacturer's final assembly location only. The report must include accurate records of all bus construction activities (e.g. , component manufacturing processes, final assembly activities, quality control data, etc.), and a description of how the construction and operation of the bus(es) fulfills the contract specifications referring to the construction activities cited above .
2. After the resident inspector has completed the report, LATS or its analyst must review the report and visually inspect and road test the buses and/or vans.
3. . Following the two steps above, complete the Post-Delivery Purchaser's Requirements Certification below, and
4. File the certification and the resident inspector's report, visual inspection sheets, and road test sheets for future FTA reviews.

When procuring **ten (10) or fewer buses or modified vans, or any number of primary manufacturer standard production unmodified vans (Title 49 of the CFR Part 663.37)**LATS is not required to send a resident inspector to the manufacturing site. In order to demonstrate compliance with the Post-Delivery purchaser's certification requirement for ten (10) or more buses or modified vans, LATS or its analyst must:

1. Visually inspect and road test the buses before delivery in order to verify that the buses meet the contract specifications;
2. Complete the Post-Delivery Purchaser's Requirements Certification below; and
3. File the certification and the visual inspection data sheets and road test sheets for future FTA reviews.

POST-DELIVERY PURCHASER'S REQUIREMENTS CERTIFICATION FOR MORE THAN TEN (10) BUSES OR MODIFIED VANS

As required by Title 49, of the CFR, Part 663 - Subpart C, The City of Lawton Transit Trust Authority, dba Trust, certifies that a resident inspector (the resident inspector - not an agent or employee of the manufacturer) _____ was at (the manufacturer) _____'s manufacturing site during the period of manufacture of the (number and description) _____ buses. The inspector monitored manufacturing and completed a report on the manufacture of the buses providing accurate records of all bus construction activities. The report addresses how the construction and operation of the buses fulfill the contract specifications. After reviewing the report, visually inspecting the buses, and road testing the buses. Trust certifies that the buses meet the contract specifications.

Printed Name: _____

Date: _____

Signature: _____

Title: _____

POST-DELIVERY PURCHASER'S REQUIREMENTS CERTIFICATION FOR TEN (10) OR FEWER BUSES OR MODIFIED VANS, OR ANY NUMBER OF STANDARD VANS.

As required by Title 49 of the CFR, Part 663 - Subpart C, after visually inspecting and road testing the contract buses, The City of Lawton Transit Trust Authority, dba Trust, certifies that the (number and description)_____buses, from (the manufacturer)_____meet the contract specifications.

Printed Name:_____

Date:_____

Signature:_____

Title:_____

7.4.6 The Post-Delivery Motor Vehicle Standards (FMVSS) Certifications Requirement

LATS must follow to the following procedures to demonstrate compliance with the Post-Delivery FMVSS certification requirement.

- The manufacturer's FMVSS self-certification sticker must be affixed to each bus;
- Complete the Post-Delivery FMVSS Compliance Certification below; and
- File the FMVSS certification for future FTA reviews.

Some buses may not be subject to FMVSS regulations as explained in Title 49 of the Code of Federal Regulations Part 555 'Temporary Exemption from Motor Vehicle Safety Standards'. If the buses are not subject to the FMVSS regulations, LATS must:

- Request and receive the manufacturer's certified statement indicating that the buses are not subject to the FMVSS regulations; and
- Complete the Post-Delivery FMVSS Exemption Certification below; and
- File the FMVSS certification and the manufacturer's Post-Delivery statement for future FTA reviews.

POST-DELIVERY FMVSS EXEMPTION CERTIFICATION

As required by Title 49 of the CFR, Part 663 - Subpart D, The City of Lawton Transits Trust Authority, dba Trust, certifies that it received, at the Post-Delivery stage, a statement from (the manufacturer)

_____ indicating that the (number and description of buses) _____
_____ are not subject to the Federal Motor Vehicle
Safety Administration in the Tile 49 of the Code of Federal Regulations, Part 571.

Printed Name: _____

Date: _____

Signature: _____

Title: _____

POST-DELIVERY FMVSS COMPLIANCE CERTIFICATION

As required by Title 49 of the CFR, Part 663 - Subpart D, The City of Lawton Transit Trust Authority, dba Trust, certifies that it received, at the Post-Delivery stage, a copy of (the manufacturer)

_____ 's , self-
certification information stating that the (number and description of buses) _____

_____ comply with the
relevant Federal Motor Vehicle Safety Standards issued by the National Highway Traffic Safety
Administration in the Title 49 of the Code of Federal Regulations. Part 571.

Printed Name: _____

Date: _____

Signature: _____

Title: _____

7.4.7 Sample Visual Inspection Sheet

The following items should be inspected on each order.

Manufacturer _____ Vehicle number _____ Test Location _____

Item	Requirement	Inspection Instruction	Result	Inspector/ Date	Remarks/ Notes
Curb Weight	Maximum curb weight of _____ lb.	Measure on certified scale	<u>Weight</u>		
FMVSS Sticker	Affixed to vehicle	Locate sticker	Pass/Fail		
Finish and Color	Smooth body surfaces and paint	Visually inspect all surfaces for flaws	Pass/Fail		
Interior Panel Fastening	Absence of rough edges and surfaces	Verify presence of towing eyes	Pass/Fail		
Towing Devices	Provision of towing eyes (front V Rear)	Verify presence of towing eyes	Pass/Fail		
Door Control	Opening time of seconds	Verify door opening time frame	Pass/Fail		
Interior Lighting	Lighting operable without engine	Switch on all interior frame	Pass/Fail		
Exterior Lighting	All vehicle lights operable	Switch on and verify lamps are on	Pass/Fail		
Fuel Tank	Fill rate and filter location	Inspect filter for easy access and check fill rate	Pass/Fail		
Chassis	Welds, axles, suspensions, steering, wheels, and brakes	Inspect for leaks and interference, Check fluid levels, welds, undercoating, air lines, brake slack, and lug nuts.	Pass/Fail		
Electrical	Wiring and junction boxes	Inspect for loose or stretched wires	Pass/Fail		
Batteries	Secured & Polarized wiring access for jump start	Inspect compartment and jumper cable access	Pass/Fail		
HVAC	Capacity and performance	Operate AC, check compressor, condenser, flow and temperature	Pass/Fail		
Wheelchair Access	Clear lift or ramp access and securement area	Operate lift ramp, inspect operation, measure areas	Pass/Fail		
Power Plant	Mounting and arrangement	Check for loose lines, leaks, and noises. Check fluid levels, belt alignment and cap fit	Pass/Fail		

7.4.8 Sample Road Test Sheet

The following items should be inspected on each order.

Manufacturer _____ Vehicle number _____ Test Location _____

Item	Requirement	Inspection Instruction	Result	Inspector/ Date	Remarks/ Notes
Engine	N/A	Record low idle, fast idle, and high idle speeds	Low _____ Fast _____ High _____		
Service Brakes	Stopping distance	Verify function and indicator, check for pulling to either side	Pass/Fail		
Parking Brake	N/A	Verify indicator, and no movement	Pass/Fail		
Turning Effort	Steering wheel torque	Check effort with coach stopped	Pass/Fail		
Acceleration	Rate from 0 to ____ mph	Verify acceleration on smooth road	Pass/Fail		
Resonance	Absence of audible and/or visible vibrations	Operate coach at various speeds, check for vibrations and rattles	Pass/Fail		
Windshield Wipers	Evenly deposited wash fluid	Operate coach at safe speed over 40 mph, check coverage, parking position, and wiper frequency	Pass/Fail		
Power Plant	N/A	Check for leaks under coach and in engine compartment, check for abnormal noises	Pass/Fail		
HVAC	Interior temperature	Operate system, check internal and ambient temperature	Int. _____ Amb. ____		
Door Control	Accelerator and brake interlocks	At speeds less than 10 mph, verify accelerator and brake interlocks with door open	Pass/Fail		
General	N/A	During testing, observe any abnormalities in ride and handling of coach	Pass/Fail		

APPENDIX D
PROVISIONS, CERTIFICATIONS, REPORTS, FORMS, AND OTHER -- MATRICES

A. THIRD PARTY CONTRACT PROVISIONS

(excluding micro-purchases, except Davis-Bacon requirements apply to contracts exceeding \$2,000)

PROVISION	COMMENTS	MASTER AGREEMENT REFERENCE (based on FA MA(30) 11-2-2022)
All FTA Assisted Third Party Contracts and Subcontracts		
No Federal Government Obligations to Third Parties (Use of Disclaimer)		§ 3(l)
False or Fraudulent Statements or Claims – Civil and Criminal Fraud		§ 4.e
Access to Third Party Contract Records		§ 16.s
Changes to Federal Requirements		§ 3.j.(1)
Equal Employment Opportunity (except special DOL construction clause))		§ 12
Disadvantaged Business Enterprises (DBEs)	Contract awarded on the basis of a bid/proposal offering to use DBEs.	§ 12.e
Incorporation of FTA Terms	Per FTA C 4220.1F.	§ 16.d
Prompt Payment		49 CFR 26.29
Prohibition on Certain Telecommunications Equipment		2 CFR 200.216 FAR 52.204-24
Awards Exceeding \$10,000		
Terminations		§ 11 and § 16.d.(2)
Debarment and Suspension	Awards exceeding \$25,000	§ 4.h
Notice to FTA and U.S. DOT Inspector General of waste, fraud, abuse...	Awards exceeding \$25,000	§ 39(b)
Lobbying	Awards exceeding \$100,000	§ 4.c and § 16.d(8)
Awards Exceeding the Simplified Acquisition Threshold (\$250,000)		
Resolution of Disputes, Breaches, or Other Litigation		§ 39
Awards Exceeding \$150,000 by Statute		
Clean Air	42 U.S.C. 7401-7671q.	§ 16.d.(7)
Clean Water	33 U.S.C 1251-1387	§ 16.d.(7)
Buy America	When tangible property or construction will be acquired. The threshold for applicability is no longer tied to the simplified acquisition threshold. It is statutorily fixed in 49 U.S.C. §5323(j)(13).	§ 15.a and b

Note: The Special EEO Clause for Construction is now shown on next page under "Construction Activities" for all contracts.

PROVISIONS, CERTIFICATIONS, REPORTS, FORMS, AND OTHER — MATRICES

– **THIRD PARTY CONTRACT PROVISIONS (Continued)**

(excluding micro-purchases, except Davis-Bacon requirements apply to contracts exceeding \$2,000)

PROVISION	COMMENTS	MASTER AGREEMENT REFERENCE (based on FA MA(30) 11-2-2022)
Transport of Property or Persons		
Cargo Preference	When acquiring property suitable for shipment by ocean vessel.	§ 15.c
Fly America	When property or persons are transported by air between U.S. and foreign destinations, or between foreign locations.	§ 15.d
Construction Activities		
Construction Employee Protections – Davis-Bacon Act	For contracts exceeding \$2,000.	§ 16.d.(4)
Construction Employee Protections – Contract Work Hours & Safety Standards Act	For contracts exceeding \$100,000. OMB Office of Federal Financial Management has not adopted the FAR clause 2.101 \$150,000 simplified acquisition threshold standard.	§ 16.d.(5)
Construction Employee Protections – Sec. 1 Copeland Anti-Kickback Act – Sec. 2 Copeland Anti-Kickback Act	All contracts All construction contracts exceeding \$2,000.	§ 16.d.(4)
Special EEO Provision for Construction	All construction contracts	§ 16.d.(3)
Bonding for Construction Activities Exceeding \$250,000	5% bid guarantee bond. 100% performance and payment bond.	§ 16.n
Seismic Safety	Construction contracts for new buildings or for existing buildings.	§ 23.b
Veterans Preference	All construction contracts	16.u
Non-construction Activities		
Nonconstruction Employee Protection – Contract Work Hours & Safety Standards Act	For all turnkey, rolling stock, and operational contracts (except transportation services contracts and open market contracts) exceeding \$100,000. OMB Office of Federal Financial Management has not adopted the FAR clause 2.101 \$150,000 simplified acquisition threshold standard.	§ 24.b
Transit Operations		
Transit Employee Protective Arrangements		§ 24.d
Charter Bus Operations		§ 28
School Bus Operations		§ 29
Drug Use and Testing	Safety sensitive functions.	§ 35.b
Alcohol Misuse and Testing	Safety sensitive functions.	§ 35.b

PROVISIONS, CERTIFICATIONS, REPORTS, FORMS, AND OTHER—MATRICES

A. THIRD PARTY CONTRACT PROVISIONS (Continued)

(excluding micro-purchases, except Davis-Bacon requirements apply to contracts exceeding \$2,000)

PROVISION	COMMENTS	MASTER AGREEMENT REFERENCE (based on FA MA(30) 11-2-2022)
Planning, Research, Development, and Demonstration Projects		
Patent Rights		§ 17
Rights in Data and Copyrights		§ 18
Special Notification Requirements for States		
Special Notification Requirement for States		§ 37
Miscellaneous Special Requirements		
Energy Conservation	All Contracts	§ 26
Recycled Products	Contracts when procuring \$10,000 or more per year of items designated by EPA.	§ 16.d.(10)
Prohibition on Certain Telecommunications Equipment	All Contracts	2 CFR 200 Appendix II 2 CFR 200.216
Conformance with National ITS Architecture	Contracts and solicitations for ITS projects.	§ 16.l
ADA Access	Contracts for rolling stock or facilities construction/renovation.	§ 12.h
Assignability Clause	Procurements through assignments (“piggybacking”).	§ 16.a, which incorporates FTA circular 4220.1

PROVISIONS, CERTIFICATIONS, REPORTS, FORMS, AND OTHER—MATRICES

B. APPLICABILITY OF THIRD PARTY CONTRACT PROVISIONS

(excluding micro-purchases, except Davis-Bacon requirements apply to contracts exceeding \$2,000)

TYPE OF PROCUREMENT					
PROVISION	Professional Services/A&E	Operations/ Management	Rolling Stock Purchase	Construction	Materials & Supplies
No Federal Government Obligations to Third Parties (by Use of a Disclaimer)	All	All	All	All	All
False Statements or Claims Civil and Criminal Fraud	All	All	All	All	All
Access to Third Party Contract Records	All	All	All	All	All
Changes to Federal Requirements	All	All	All	All	All
Termination	>\$10,000	>\$10,000	>\$10,000	>\$10,000	>\$10,000
Equal Employment Opportunity except Special DOL EEO clause for construction projects)	All	All	All	All	All
Special DOL EEO clause for construction projects				>\$10,000	
Disadvantaged Business Enterprises (DBEs)	All	All	All	All	All
Incorporation of FTA Terms	All	All	All	All	All
Debarment and Suspension	>\$25,000	>\$25,000	>\$25,000	>\$25,000	>\$25,000
Buy America			>\$150,000	>\$150,000	>\$150,000
Resolution of Disputes, Breaches, or Other Litigation	>\$250,000	>\$250,000	>\$250,000	>\$250,000	>\$250,000
Lobbying	>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000
Clean Air	>\$150,000	>\$150,000	>\$150,000	>\$150,000	>\$150,000
Clean Water	>\$150,000	>\$150,000	>\$150,000	>\$150,000	>\$150,000
Cargo Preference			Transport by ocean vessel.	Transport by ocean vessel.	Transport by ocean vessel.
Fly America	Foreign air transp. /travel.	Foreign air transp. /travel.	Foreign air transp. /travel.	Foreign air transp. /travel.	Foreign air transp. /travel.
Notice to FTA and U.S. DOT Inspector General of Information Related to Fraud, Waste, etc.	\$25,000 or More. Prime and Subs	\$25,000 or More. Prime and Subs	\$25,000 or More. Prime and Subs	\$25,000 or More. Prime and Subs	\$25,000 or More. Prime and Subs
Prompt Payment	All	All	All	All	All

PROVISIONS, CERTIFICATIONS, REPORTS, FORMS, AND OTHER—MATRICES

B. APPLICABILITY OF THIRD PARTY CONTRACT PROVISIONS (Continued)

(excluding micro-purchases, except Davis-Bacon requirements apply to construction contracts exceeding \$2,000)

TYPE OF PROCUREMENT					
PROVISION	Professional Services/A&E	Operations/ Management	Rolling Stock Purchase	Construction	Materials & Supplies
Davis-Bacon Act				>\$2,000 (also ferries).	
Veterans Preference				>\$150,000	
Contract Work Hours and Safety Standards Act		>\$250,000 (transportation services excepted).	>\$250,000	>\$250,000 (also ferries).	
Copeland Anti-Kickback Act Section 1 Section 2				All > \$2,000 (also ferries).	
Bonding				>\$250,000	
Seismic Safety	A&E for new buildings & additions.			New buildings & additions.	
Transit Employee Protective Arrangements		Transit operations.			
Charter Service Operations		All			
School Bus Operations		All			
Drug Use and Testing		Transit operations.			
Alcohol Misuse and Testing		Transit operations.			
Patent Rights	R & D				
Rights in Data and Copyrights	R & D				
Energy Conservation	All	All	All	All	All
Recycled Products		EPA-selected items \$10,000 or more annually.		EPA-selected items \$10,000 or more annually.	EPA-selected items \$10,000 or more annually.
Seat Belt Use	All	All	All	All	All
Distracted Driving	All	All	All	All	All
Conformance with ITS National Architecture	ITS projects.	ITS projects.	ITS projects.	ITS projects.	ITS projects.
ADA Access	A&E	All	All	All	All
Notification of Federal Participation for States	Limited to States.	Limited to States.	Limited to States.	Limited to States.	Limited to States.
Prohibition on Certain Telecommunications Equipment	All	All	All	All	All

PROVISIONS, CERTIFICATIONS, REPORTS, FORMS, AND OTHER—MATRICES

C. CERTIFICATIONS, REPORTS, AND FORMS

CERTIFICATIONS, REPORTS, AND FORMS	COMMENTS	REGULATORY REFERENCE
Bus Testing Certification	All procurements of new model transit buses and vans and existing models being modified with major changes.	49 CFR Part 665
TVM Certifications	All rolling stock procurements.	49 CFR Part 26
Buy America Certification	Procurements of steel, iron, manufactured products and construction materials exceeding \$150,000.	49 CFR Part 661
Preaward Review	FTA Annual Certification for any rolling stock procurement.	49 CFR Part 663
Preaward Buy America Certification	Rolling stock procurements exceeding \$150,000.	49 CFR Part 663
Preaward Purchaser's Requirement	All rolling stock procurements.	49 CFR Part 663
Post Delivery Review	FTA Annual Certification for any rolling stock procurement.	49 CFR Part 663
Post Delivery Buy America Certification	Rolling stock procurements exceeding \$150,000.	49 CFR Part 663
Post Delivery Purchaser's Requirement	All rolling stock procurements to the extent required by Federal law and regulations.	49 CFR Part 663
On-Site Inspector's Report	Rolling Stock except for procurements of: - 10 or fewer vehicles; - 20 or fewer vehicles serving rural (other than urbanized) areas or urbanized areas or 200,000 people or fewer; - any amount of primary manufactured standard production and unmodified vans that after visual inspection and road testing meet the contract specifications.	49 CFR Part 663
Federal Motor Vehicle Safety Standards - Preaward and Post Delivery Reviews	Motor vehicle procurements (49 CFR 571).	49 CFR Part 663
Lobbying	Procurements exceeding \$100,000.	49 CFR Part 20 OMB Office of Federal Financial Management has not adopted FAR 2.101 \$150,000 simplified acquisition threshold standard.
Standard Form LLL and Quarterly Updates (when required)	Procurements exceeding \$100,000 where contractor engages in lobbying activities.	49 CFR Part 20 OMB Office of Federal Financial Management has not adopted FAR 2.101 \$150,000 simplified acquisition threshold standard.

PROVISIONS, CERTIFICATIONS, REPORTS, FORMS, AND OTHER—MATRICES

D. OTHER MATTERS

OTHER MATTERS	COMMENTS	STATUTORY OR REGULATORY REFERENCES
Contract Administration System		2 CFR § 200.318(b)
Record of Procurement History		2 CFR § 200.318(i)
Protest Procedures		2 CFR § 200.318(k)
Selection Procedures		2 CFR § 200.320 b.
Cost/Price Analysis		2 CFR § 200.324
Justification for Noncompetitive Awards	If Applicable.	2 CFR § 200.320 c.
No Excessive Bonding Requirements		2 CFR § 200.319(b) (2)
No Exclusionary Specifications		2 CFR § 200.319(d) (1)
No Geographic Preferences	Except for A&E Services	42 CFR § 200.319 c.