PROCUREMENT AND CONTRACT ADMINISTRATION MANUAL

FOR THE ACQUISITION OF GOODS AND SERVICES UNDER FEDERAL TRANSIT ADMINISTRATION GRANT PROGRAMS

Wisconsin Department of Transportation
Division of Transportation Investment Management
Bureau of Transit, Local Roads, Railroads and Harbors

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Introduction

In accordance with the U.S. Department of Transportation, Federal Transit Administration (FTA) requirements, the Wisconsin Department of Transportation (WisDOT), Division of Transportation Investment Management (DTIM), Bureau of Transit, Local Roads, Railroads and Harbors (BTLR) has developed this procurement manual for all recipients utilizing FTA monies.

This manual governs procurement activities under the following grant programs administered by WisDOT:

- Section 5304 Planning
- Section 5309 Major Capital Program
- Section 5310 Elderly Individuals and Individuals with Disabilities
- Section 5311 Nonurban Area Formula Program
- Section 5329 State Safety Oversight
- Section 5339 Bus and Bus Facilities Formula Program

The *FTA Circular 4220 Third-Party Contracting Guidance* (as amended), the *FTA Best Practices Procurement Manual* and the FTA program administration regulations listed below set forth the requirements a recipient must adhere to in the solicitation, award and administration of its third-party contracts. These requirements are based on the common grant rules, federal statues, Executive Orders and their implementing regulations, and FTA policy.

- Circular 4220 – Third Party Contracting Guidance
  - https://www.transit.dot.gov/regulations-and-guidance/fta-circulars/third-party-contracting-guidance
- Best Practices Procurement Manual
  - https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/funding/procurement/8286/fta-best-practices-procurement-and-lessons-learned-manual-2016.pdf
- Master Agreement
  - https://www.transit.dot.gov/funding/grantee-resources/sample-fta-agreements/fta-master-agreement-fiscal-year-2020
- Circular 5010 – Award Management Requirements (Grant Management Guidelines)
  - https://www.transit.dot.gov/regulations-and-guidance/fta-circulars/award-management-requirements-circular-50101e
- Circular 9030 – Urbanized Area Formula Program
  - https://www.transit.dot.gov/regulations-and-guidance/fta-circulars/urbanized-area-formula-program-program-guidance-and
- Circular 9040 – Formula Grants for Rural Areas Program (Non-Urbanized Area Formula Program)
  - https://www.transit.dot.gov/regulations-and-guidance/fta-circulars/formula-grants-rural-areas-program-guidance-and-application
- Circular 9070 – Enhanced Mobility of Seniors and Individuals with Disabilities Program
  - https://www.transit.dot.gov/regulations-and-guidance/fta-circulars/enhanced-mobility-seniors-and-individuals-disabilities

When an entity applies for and accepts federal funds they also accept the responsibility of maintaining oversight of the procurement process and assuring its federal compliance.

State and federal regulations regarding procurement of goods and services are complex, detailed, and often change to reflect changes in legislation. The process for each type of procurement is documented in the toolkits with the associated appendices:

http://wisconsindot.gov/Pages/doing-bus/local-gov/astnce-pgms/transit/procure.aspx.

Before procurements are initiated, recipients should review these resources and work with the WisDOT Transit Procurement Manager to ensure required steps are followed. Recipients are required to have all stages of the procurement reviewed and approved by WisDOT.

There may be instances in which recipients experience procurement activities or situations not addressed in this manual. Recipients should contact WisDOT staff for assistance.

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1. OVERVIEW OF PROCUREMENT REQUIREMENTS

1.1 GENERAL REQUIREMENTS

Roles and Responsibilities

WisDOT is the *recipient* authorized to receive funds directly from FTA. A *subrecipient* is an agency authorized to receive grant funds through WisDOT. The responsibility for the procurement process ultimately rests with WisDOT as the *recipient* of the FTA grant. However, *subrecipients* are obligated to follow all applicable procurement requirements and provide information to WisDOT demonstrating how requirements were met.

For ease of use of this manual, subrecipients and WisDOT Transit Section staff are both referred to as a *recipient.* Minor deviations in the process steps for subrecipients and WisDOT Transit are noted throughout the manual.

When a recipient conducts a procurement of goods or services funded with an FTA grant, it is the responsibility of that recipient to manage the entire procurement process and contract administration to ensure its compliance with relevant FTA requirements.

If a recipient accepts capital or operating assistance, FTA requirements also apply to all transit-related third-party purchase orders and contracts. In addition to ensuring adequate and open competition for federally funded purchases of goods or services, recipients must ensure *vendor* compliance with applicable federal regulations including, developing all procurement documents, specifications, and contract administration.

These requirements do not apply to procurements undertaken in support of capital projects completely accomplished without FTA funds or to those operating and planning contracts awarded by recipients that do not receive FTA operating and planning assistance.

Procurement Duration

WisDOT specifies in capital contracts that the recipient must complete all purchases within a period of two years. The funds will lapse at the end of the two year period if the recipient has not implemented all purchases. WisDOT may however exercise its discretion to approve an extension to a grant, on a case-by-case basis, and depending on the type of purchase (e.g. facility construction), if the recipient demonstrates that “reasons beyond its control” - lack of planning excluded - prevented compliance with this requirement and the recipient shows: 1) that a good faith effort has been made to complete the purchases, and 2) that it can complete such purchases within a reasonable amount of time.

Code of Conduct

Recipients must maintain written standards of conduct covering conflicts of interest and governing the performance of its employees engaged in the selection, award and administration of contracts. No employee, officer, or agent must participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. An employee, officer, agent, and board member of the recipient may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-Federal entity. If the recipient has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe, the recipient must also maintain written standards of conduct covering

organizational conflicts of interest. Organizational conflicts of interest means that because of relationships with a parent company, affiliate, or subsidiary organization, the recipient is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization.

Methods of Procurement

Purchases of $5,000 or less. Even though FTA considers micro-purchases as purchases of $10,000 or less, the $5000 threshold is unique to WisDOT and its subrecipients. Though not required by FTA, recipients are encouraged to solicit competitive quotes. FTA requires micro-purchases to be distributed equably among qualified suppliers.

- "Splitting requirements" refers to the practice of breaking down known requirements into two or more purchases to reduce the dollar value of each to below the micro-purchase thresholds in order to be able to use micro-purchase procedures or otherwise circumvent more restrictive full-and-open competitive procedures. FTA prohibits the practice of splitting requirements.
- Online vendors are acceptable. Documentation is required. Subrecipients are required to attain the proper FTA certifications and clauses required.

Total purchase is more than $5,000 but not greater than $49,999. If the total purchase is more than $5,000 but not greater than $49,999 a competitive procurement must be followed. Even though FTA considers small-purchases as purchases of $250,000 or less, the $50,000 threshold is unique to WisDOT and its subrecipients. The recipient must obtain quotations and signed certifications from an adequate number of qualified bidders, at least three. Following delivery and recipient acceptance of the goods or services, reimbursement is processed and the purchase is completed.

- "Splitting requirements" refers to the practice of breaking down known requirements into two or more purchases to reduce the dollar value of each to below the small-purchase thresholds in order to be able to use small-purchase procedures or otherwise circumvent more restrictive full-and-open competitive procedures. FTA prohibits the practice of splitting requirements.
- Online vendors are acceptable. Documentation is required. Subrecipients are required to attain the proper FTA certifications and clauses required.

Total purchase equals or exceeds $50,000. If a total purchase equals or exceeds $50,000 recipients must follow an ***Invitation for Bid (IFB)*** or ***Request for Proposal (RFP)*** process.

- An Invitation for Bid (sealed bid) is used when cost is the only factor and all other specifications can be detailed.
- A Request for Proposal is a competitive proposal process in which cost is one of many factors and specifications are vague.

For specific information on IFBs and RFPs, please refer to the appropriate toolkits on the WisDOT website.

Design-Bid-Build – Recipients may procure design-bid-build services through means of sealed bidding or competitive negotiations. These services must be procured in a manner that conform to applicable state and local law, the requirements to Circular 4220.1F (as amended) relative to the method of procurement used and all other applicable federal requirements.

Design-Build – Recipients must procure design-build services though means of qualifications-based competitive proposal procedures based on the Brooks Act when the preponderance of the work to be performed is for architectural and engineering (A&E).

Sole Source - When the recipient requires supplies or services available from only one responsible source, and no other supplies or services will satisfy its requirements, the recipient may make a sole source award. When the recipient requires an existing contractor to make a change to its contract that is beyond the scope of that contract, the recipient has made a sole source award that must be justified.

- Each WisDOT Toolkit will contain a form to document any sole source procurements and provide additional guidance.

Procurement Toolkits

The total procurement cost determines the type of procurement process that must be followed. WisDOT has developed toolkits and appendices for each procurement type. It is imperative the toolkits and respective procurement steps are followed in chronological order:

http://wisconsindot.gov/Pages/doing-bus/local-gov/astnce-pgms/transit/procure.aspx

Recipients are required to have all stages of the procurement reviewed and approved by WisDOT.

Record Keeping and Documentation

Files must be maintained on all procurement actions, sufficiently detailed to sustain an audit of the procurement, and clearly document what goods or services were purchased with the associated costs.

The files must document compliance with FTA and WisDOT requirements. A ***Procurement History File Checklist*** is included in each procurement toolkit. Recipients should use the ***Procurement History File Checklist*** as the framework for the procurement process and as a checklist to ensure completeness of procurement files.

FTA requires recipients to maintain procurement files and grant files for a period of not less than (3) three years *from the closing of the grant*.

1.2 FEDERAL REQUIREMENTS

The following general requirements are established in FTA Circular 4220 Third Party Contracting Requirements:

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

Cost Plus Percentage of Cost Contracts - FTA does not allow Cost plus Percentage of Cost Contracts. Profit must be set at a fixed amount (the “fixed fee”) on contracts with third party vendors, based on the initial estimate of work.

Conformance with State and Local Law - Recipients shall use their own procurement procedures that reflect applicable State and local laws and regulations, provided that the procurements conform to applicable federal law, including the requirements and standards identified in Circular 4220 Third Party Contracting Requirements.

Special Notification Requirements for States – The FTA requires the following statement to be included in all solicitation documents: "Federal grant monies (insert federal grant agreement amount) fund this contract, in whole or in part (Section 53XX – CFDA 20.5XX).

Contract Administration System - Recipients shall maintain a contract administration system that ensures that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders. A sound contract administration system identifies what is needed in the procurement and documents all steps in the process (i.e. solicitation, negotiation, and contract). Recipients should refer to the contract during the life of the contract to ensure the contractor is complying with all requirements.

- Contract administration starts with the procurement. Recipients should ensure all pertinent information required in the contract is included in the solicitation. Failure to do so may cause cardinal changes which are prohibited by FTA. Anything negotiated during an RFP should also be included in the contract. Recipients should watch for any changes that may not have been in the original solicitation.

Written Standards of Conduct - Recipients shall maintain written standards of conduct governing the performance of their employees engaged in the award and administration of contracts and regarding potential conflicts of interest. No employee, officer, agent, immediate family member, partner, or board member of the grantee shall: 1) participate in the selection, award, or administration of a contract supported by FTA funds if a conflict of interest exists, real or apparent or 2) solicit or accept gifts, gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to subcontracts.

Liquidated Damages - FTA has determined that a recipient may use liquidated damages if the recipient reasonably expects to suffer damages through delayed contract completion, or if weight requirements are exceeded, and the extent or amount of such damages are uncertain and would be difficult or impossible to determine. The rate and measurement standards must be calculated to reasonably reflect the recipient's costs should the standards not be met, and must be specified in the solicitation and contract. The assessment for damages is often established at a specific rate per day for each day beyond the contract's delivery date or performance period. A measurement other than a day or another period of time, however, may be established if that measurement is appropriate, such as weight requirements in a rolling stock purchase. The procurement file should include a record of the calculation and rationale for the amount of damages established. Any liquidated damages recovered must be credited to the project account involved unless FTA permits otherwise.

Ensuring Most Efficient and Economic Purchase - Recipient procedures shall provide for a review of proposed procurements to avoid purchase of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase.

Written Record of Procurement History - Recipients shall maintain records detailing the history of procurement. Appendix A in each procurement toolkit allows recipients to document a Written Record of Procurement History.

Awards to Responsible and Responsive Contractors - Recipients shall make awards only to responsible and responsive contractors possessing the ability to perform successfully under

the terms and conditions of a proposed procurement. Consideration shall be given to such matters as conforming to the requirements of the solicitation, contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. All procurements must include a printout from www.sam.gov.The date of the printout must be on the bottom of the page.

- Procurement Toolkits on the WisDOT website include documents on determining cost and price reasonableness, evaluation factors, contractor reasonableness, and contractor selection procedures.

Advanced Payments – FTA does not allow advanced payments

Revenue Contract – Contracts whose primary purpose is either to generate revenues in connection with a transit related activity, or to create business opportunities utilizing an FTA funded asset. FTA requires these contracts to be awarded utilizing competitive selections procedures and principals. The extent of and type of competition required is within the discretionary judgment of the grantee.

Written Protest Procedures - Recipients shall have written protest procedures to handle and resolve disputes relating to their procurements and shall in all instances disclose information regarding the protest to WisDOT. WisDOT is responsible for notifying FTA. All protest decisions must be in writing. A protester must exhaust all administrative remedies with the grantee before pursuing a protest with WisDOT or FTA.

Written Protest Procedures for WisDOT Procurements – WisDOT's protest procedures shall follow the Wisconsin Department of Administration (DOA) requirement in which the initial protest must be submitted to the Secretary's Office. If the contractor is not satisfied with the response from the Secretary's Office, the contractor may submit their protest to DOA. Once a decision has been made, a summary of the protest and decision must be sent to FTA.

Changes and Modifications - Recipients shall have written changes and modifications procedures to handle and resolve issues, clarifications, errors and corrections relating to their procurements and shall in all instances disclose such information to WisDOT. WisDOT is responsible for notifying FTA, as needed. All changes and modifications to a procurement must be documented.

Written Changes and Modifications for WisDOT Procurements – WisDOT's changes and modifications procedures shall follow the Wisconsin Department of Administration (DOA) policy requirements. WisDOT will also review the FTA Best Practices Procurement Manual and the FTA Circular Third Party Contracting Guidance 4220, as amended for guidance. WisDOT also will consult FTA for guidance and document the changes and modifications in the procurement file.

Contract Period of Performance Limitation - Recipients shall not enter into any contract with period of performance exceeding five (5) years inclusive of options without prior written FTA approval. In addition, recipients must not enter into contracts for revenue rolling stock and replacement parts with a period of performance exceeding five years inclusive of options, extensions, or renewals.

Full and Open Competition - All procurement transactions will be conducted in a manner providing full and open competition. Some of the situations considered to be restrictive of competition include, but are not limited to:

- Unreasonable requirements placed on firms in order for them to qualify to do business;
- Unnecessary experience and excessive bonding requirements;
- Noncompetitive pricing practices between firms or between affiliated companies;
- Noncompetitive awards to any person or firm on retainer contracts;
- Organizational conflicts of interest. An organizational conflict of interest means that because of other activities, relationships, or contracts, a contractor is unable, or potentially unable, to render impartial assistance or advice to the grantee; a contractor's objectivity in performing the contract work is or might be otherwise impaired; or a contractor has an unfair competitive advantage;
- The specification of only a "brand name" product without listing its salient characteristics and not allowing "an equal" product to be offered; and
- Any arbitrary action in the procurement process.

Written Procurement Selection Procedures – Recipients shall have written selection procedures for procurement transactions. All solicitations shall:

- Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features that unduly restrict competition. 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.
- Use a "brand name or equal" description only when it cannot provide an adequate specification or more detailed description, without performing an inspection and analysis, in time for the acquisition under consideration. A recipient wishing to use "brand name or equal" must carefully identify its minimum needs and clearly set forth those salient physical and functional characteristics of the brand name product in the solicitation.
- Identify all requirements that vendors must fulfill and all other factors to be used in evaluating bids or proposals.

Pre-Qualification Criteria – Recipients shall ensure that all lists of prequalified persons, firms or products that are used in acquiring goods and services are current and include enough qualified sources to ensure maximum full and open competition. Also, recipients shall not preclude potential bidders/proposers from qualifying during the solicitation period, which is from issuance of the solicitation to its closing date.

Options – Recipients may include options in contracts. An option is a unilateral right in a contract by which, for a specified time, a recipient 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 recipient chooses to use options, the requirements below apply:

- ***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 exercise of such options will be considered a sole source procurement.
- ***Exercise*** of Options:
  - ✓ The exercise of an option must be in accordance with the terms and conditions of the option stated in the initial contract awarded.
  - ✓ An option may not be exercised unless the recipient 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.

- ✓ At the time options are signed, it is imperative to include the updated federal clauses. The contractor should have signed copies of the clauses for every year of the contract.

Intergovernmental Procurement Agreements - To foster greater economy and efficiency, recipients are encouraged to enter into State and local intergovernmental agreements for procurement or use of common goods and services. The requirements and standards of Circular 4220 Third Party Contracting Requirements apply to procurements entered into under such agreements using FTA funds.

Veterans Hiring Preference - Recipients and subrecipients of Federal financial assistance under this chapter shall ensure that contractors working on a capital project funded using such assistance give a hiring preference, to the extent practicable, to veterans (as defined in section 2108 of title 5) who have the requisite skills and abilities to perform the construction work required under the contract. This subsection shall not be understood, construed or enforced in any manner that would require an employer to give preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or former employee.

Use of General Services Administration (GSA) Schedules And Excess Or Surplus Federal Property - State and local grantees may use approved federal supply schedules of GSA for the procurement of certain goods and services, 40 U.S.C. § 481(b). Price lists will be available from GSA and may include an administrative fee for GSA in the price of items on the schedule. Recipients must contact GSA for guidance on using the GSA supply schedules.

Use of Value Engineering in Construction Contracts - Recipients are encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lowest cost.

Use of Time and Materials Type Contracts – Recipients will use time and material type contracts only after a determination that no other type of contract is suitable and if the contract specifies a ceiling price that the contractor shall not exceed, except at its own risk.

Responsibility for Settlement of Contract Issues/Disputes - Recipients alone will be responsible for sound administrative and business practices and settlement of all contractual and administrative issues arising out of procurements.

Prohibition Against Geographic Preferences – Recipients shall conduct procurements in a manner that prohibits the use of statutorily or administratively imposed in-state or local geographical preferences 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. However, geographic location may be a selection criterion in procurements for Architectural and Engineering (A&E) services provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

Architectural and Engineering (A & E) Contracts – A &E contracts should follow the Brooks Act, which requires the selection of engineering and design related services on the basis of demonstrated competence and qualifications for the type of professional services required. It also includes serial negotiations for fair and reasonable compensation.

WisDOT A&E Procurements – Three essential steps are required: 1) Document the desired qualifications for the contract, 2) Contact the Audit and Contract Administration Section in the Bureau of State Highway Programs to obtain and document a list of qualified engineers and 3) Determine and select the WisDOT solicitation process. There are two possible solicitation processes, the DTSD-Bureau of Project Development, Consultant Services Section or DBM-Purchasing. The DTSD-Bureau of Project Development, Consultant Service Section process can be used to advertise the solicitation if the schedule matches the timing of procurement. If this timeframe is not suitable, contact DBM-Purchasing to post the solicitation on the public notices website.

FTA Required Clauses - FTA required clauses must be included in the recipient procurement process. Master lists of all clauses are included in each toolkit.

Construction Contracts Over $100,000 - For construction contracts over $100,000, FTA-accepted local bonding requirements must be met.

Service Contracts - Any service contracts that exceed five years in total length including base and options require prior written approval from FTA. Competitive procurement requirements must be included in the recipient's third party contract for services funded with federal dollars.

Progress Payments - Progress payments are not allowed unless the recipient has obtained title or possession of the property or taken alternative steps to protect the recipient's interest.

Procurement of Vehicles - If the recipient is purchasing revenue rolling stock, it must make a determination that the vehicle has been tested as required prior to the expenditure of FTA funds (http://altoonabustest.psu.edu/home).

- If the bus model does not require testing, the recipient must obtain a certification from the *manufacturer* (not the vehicle dealer) that the bus does not need to be tested.
- The recipient **must** also complete the Pre-Award and Post Delivery reporting requirements as established in the FTA handbook:

  https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/regulations-and-guidance/buy-america/58191/buy-america-handbook-rpt0106.pdf

- Pre-Award and Post-Delivery reporting requirements are complex. Please contact the WisDOT Procurement Manager for further assistance.

Piggybacking – Piggybacking is the post-award use of a contractual/process that allows an entity who was not contemplated in the original procurement to purchase the same supplies/equipment through that original document/process. Refer to the Piggybacking Worksheet for additional information:

https://www.transit.dot.gov/funding/procurement/third-party-procurement/united-states-best-practices-procurement-manual-%E2%80%93

- Any procurement where "piggy-backing" is involved shall have an **assignability clause** that provides for the assignment of all or part of the specified deliverables (base and option included) as originally advertised, competed, evaluated, and awarded. *The clause cannot be added to the contract after award if it was missing from the original solicitation. Bidders must be placed on notice that an assignment is likely and that they will thus be delivering all of the quantities called for by the contract.*

- The procurement documents shall contain a minimum and maximum quantity of deliverables.
- Any contract clauses that unduly restrict competition are prohibited.
- If a recipient is procuring any equipment or materials using option clauses, these must be evaluated at the time of the initial bid with prices established at that time.
- The use of liquidated damage clauses in recipient procurements is mandatory.

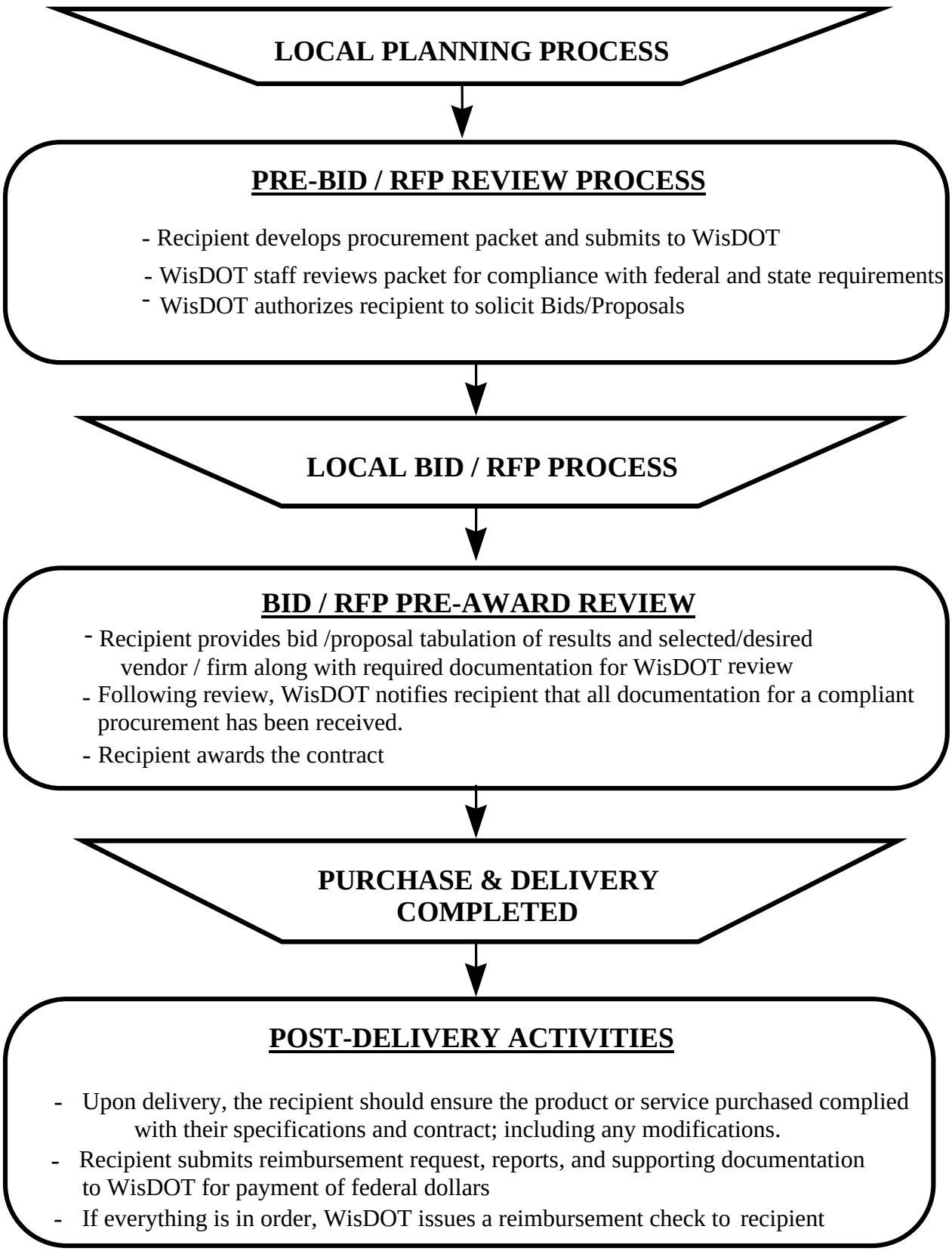
1.3 WISDOT PROCUREMENT REVIEW PROCESS

WisDOT considers the recipient procurement to be a local process. The recipient is responsible for the procurement of goods and services under its funding contract with WisDOT. WisDOT follows a procurement review process to ensure compliance with federal and state regulations. This review process takes place at three distinct points during the recipient's procurement:

- Pre-Bid/RFP Review Process
- Bid/RFP Pre-Award Review Process
- Post-Delivery Activities

The following diagram illustrates the WisDOT Procurement Review Process. The required forms for recipient submittal to WisDOT are included in the procurement toolkits available on the WisDOT website.

WisDOT PROCUREMENT REVIEW PROCESS



2. RECIPIENT PROCUREMENT PROCESS DETAILS

This section of the manual is intended to explain the requirements of the recipient procurement process.

2.1 TO DO BEFORE PROCUREMENT PROCESS

Determine the Scope of the Procurement

To begin the procurement, recipients should first review the original grant request and determine the scope and budget of the procurement. The scope of your procurement should coincide with the approved grant agreement from WisDOT. Once the goals of the procurement are clear, detailed specifications and a procurement packet can be developed. The recipient should consider the desired goals and outcomes. Clearly stated goals allow recipients to make effective decisions regarding the scope of the procurement and what and how much to purchase.

Identify Who Needs to be Involved

Internal Agency Involvement
Early in the procurement process identify the individuals involved as this will facilitate the overall process and save time in the long term. Depending on the procurement type, seek input from **different functional areas in the organization**. This could include staff from any or all of the following areas: purchasing, engineering, legal, financial/ accounting, transit manager, drivers, maintenance staff or others.

The following work area responsibilities should be considered:

- Department initiating the procurement for items to be purchased;
- Drivers and maintenance personnel for technical input related to vehicles;
- Finance for invoicing and payment scheduling;
- Legal for contracts, bonding, insurance, certification, procurement timetable
- Areas of specialized expertise that can provide technical information on items such as performance standards, evaluation criteria, incentives, required forms or procedures, and desired timetable.

External Resources
Consider soliciting outside assistance if your agency is small and has limited procurement experience. This could include legal or other technical assistance in writing specifications, and/or assuring bidder compliance with state, federal or local regulations.

Potential resources include:

- Technical personnel within the community or neighboring communities;
- Transit agencies;
- Local, State and federal agencies
- WisDOT

WisDOT also recommends the bid /proposal packet be reviewed by your transit committee to ensure the type of goods or services procured meet the needs of your community.

One way to reduce the need for outside assistance is to include language in the procurement package which requires contractors to assume responsibility for compliance with certain process elements included in the bid or proposal.

The recipient of federal funds as the administrator of the procurement and the contract has the ultimate responsibility for compliance with all requirements of the procurement process.

Plan the Procurement Process

Once identified individuals have been determined and selected, address the following items with the group:

- Review agency resources in terms of managing the procurement process, and determine if others need to be involved
- Assign specific responsibilities to each participant
- Create advertising policies for solicitation or publication of notices
- Review local, state and federal government requirements
- Clearly identify bidder/proposer responsibilities
- Establish a communication and reporting process
- Identify key dates, timeline and frequency of meetings
  - ✓ Meet as many times as needed to complete the procurement process on time
  - ✓ Ensure the procurement occurs at the correct time of year. For example, if working on a construction procurement, the specifications should be developed in fall/winter for a spring solicitation, summer construction.
  - ✓ Set the meeting schedule to coincide with board or council meetings, if board/council approval is required. If possible, build in extra time if an emergency meeting is warranted.
- Use the *Procurement History File Checklist* to ensure proper procurement documents are recorded and organized.

Decide the Method of Procurement

The process for each type of procurement is documented in the toolkits with the associated appendices. The total procurement cost determines the type of procurement process that must be followed:

http://wisconsindot.gov/Pages/doing-bus/local-gov/astnce-pgms/transit/procure.aspx

Invitation for Bid (IFB)
The *Invitation for Bid* (IFB) is a sealed bid and the most common method used in the public sector to obtain specific goods, such as vehicles and equipment. This method is typically used when complete specifications or purchase descriptions are available or can be easily developed. The IFB process must involve two or more bidders and the award is made to the bidder who complies with the requirements and instructions of the IFB, and who offers **the lowest total bid price** while meeting all specifications and requirements.

Request for Proposal (RFP)
The *Request for Proposal* (RFP) is a competitive procurement method when a general, rather than specific, description of goods and/or services is used. This method allows for the procurement of goods and/or services in which every detail of the work to be done cannot be specified and/or when creativity on the part of the proposer is desired.

Request for Qualifications (RFQ)
The *Request for Qualifications* (RFQ) process provides information on the background and experience of the proposer. This process is followed by an RFP process, if more than one qualified bidder is available. Frequently, the RFQ and RFP processes are combined into a single "RFP" document. This is used most frequently for A & E solicitations.

Request for Information (RFI)
The *Request for Information* (RFI) process provides technical information on a commodity and allows the recipient to determine if an item is available in the market place. In instances in which information on commodities are not readily available, recipients may contact vendors to provide information that can be incorporated into the specifications.

Sole Source Procurement
When other than full and open competition is contemplated, procurement methods such as sole source, single bidder proposal, national emergency, etc. can be utilized. Recipients are instructed to follow the procurement requirements for these methods as outlined in FTA Circular 4220.

2.1 PROCUREMENT PACKET PREPARATION

The procurement packet is the set of documents that contains information relevant to the procurement and submitted to WisDOT for review before recipients are approved to solicit offers on a project. The packet information can be found on the WisDOT website for each type of procurement:

http://wisconsindot.gov/Pages/doing-bus/local-gov/astnce-pgms/transit/procure.aspx

3. DISADVANTAGED BUSINESS ENTERPRISE (DBE) REQUIREMENTS

Disadvantaged Business Enterprise or (DBE) means a for-profit small business that is:

1. At least 51 percent owned by one or more individuals who are socially or economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals and
2. Whose management and daily operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

DBE provisions apply to USDOT assisted contracts for airports, highways and transit. This includes the use of Federal Transit Administration (FTA) planning, capital, and/or operating funds spent on contracts. The FTA requires organizations receiving FTA funds to make efforts to purchase from, or use, DBE firms.

As a FTA funding recipient, the Wisconsin Department of Transportation (WisDOT) Transit Section and its subrecpients must adhere to DBE provisions that must be addressed in the procurement process. These provisions include:

DBE Goal Setting

Three Year Goal
An overall goal for DBE participation in FTA assisted contracts is developed by WisDOT and submitted to FTA for review every three years. The goal incorporates the anticipated FTA funded contracting opportunities of both WisDOT and subrecipients for a three year period defined by FTA.

Information on WisDOT's DBE goal is available on the WisDOT website:

http://wisconsindot.gov/Pages/doing-bus/local-gov/astnce-pgms/transit/compliance/dbe.aspx

Contract Specific Goals

Recipients should notify the WisDOT Program and Procurement Managers of upcoming procurements. WisDOT will determine if a contract goal should be established based on the size and nature of a particular procurement as well as the type and location of work, availability of DBEs to perform the particular type of work, etc. Note: Vehicle procurements are not subject to WisDOT's DBE goal setting requirements.

No DBE Goal

If WisDOT determines that no specific DBE goal should be assigned to the procurement, the Procurement Manager will work with the recipient to assign the appropriate federal clause. This includes eliminating the language on any specific goal since the procurement falls under the WisDOT overall goal.

DBE Goal Established

If WisDOT determines there should be an assigned DBE goal to the procurement, the Procurement Manager will assist the recipient in completing the additional paperwork to be include in the solicitation along with the appropriate federal clause.

The DBE goal setting process on a procurement is technical and requires specific steps that must be followed throughout the procurement process and as part of contract administration. The WisDOT Transit Section will provide assistance for recipients whose procurement is a signed a DBE goal.

Good faith efforts are a consideration when a contract specific goal is established. Contact the WisDOT Procurement Manager for procedures and methodology for determining good faith efforts.

DBE Contract Clauses

All FTA-assisted contract solicitations by WisDOT or its subrecipients must be reviewed and approved by the Transit Procurement Manager to ensure they contain the appropriate FTA clauses. These clauses contain provisions related to DBE requirements.

The required contract clauses address non-discrimination, third-party contracting, prompt payment, Transit Vehicle Manufacturer (TVM) certification, termination, and remedies for prime contractors that do not comply.

It is imperative that the appropriate federal clauses are attached whether there is a DBE goal or not.

Bidders List

Subrecipients with third-party contracts are required to submit a bidders list to WisDOT. A full description of the process used and documentation required for a bidders list can be found in the WisDOT procurement toolkits.

Prompt Payment

Prompt payment by prime contractors to their subcontracts is also required, including the return of retainage. While contract-specific goals are not required on all contracts, if a contract-specific goal is established, additional information must be collected from bidders prior to contract award.

TVM Certification
Recipients must ensure that transit vehicle procurements using FTA funds only occur with TVMs that adhere to FTA requirements. This is done through the inclusion of FTA required contract clauses and a certification, to be completed by the TVM, in the solicitation and pre-award documents. The required process for handling TVM solicitations is included in the toolkits related to vehicle purchases.

Transit Vehicle Award Report
Recipients are required to submit, within 30 days of making an award, the name of the successful transit vehicle manufacturer and the total dollar value of the contract (49 CFR 26.49) using the FTA Transit Vehicle Award Report form. The FTA report form and instructions can be found at:

https://www.transit.dot.gov/regulations-and-guidance/civil-rights-ada/eligible-transit-vehicle-manufacturers

Subrecipients must contact WisDOT to assist with the completion and submission of the Transit Vehicle Award Report form. Completed forms are to be kept in the procurement file.

4. REQUIRED FEDERAL CONTRACT CLAUSES

The successful contractor is expected to be familiar with and meet all stated or otherwise applicable federal clauses and standards. FTA third party contract clauses can be obtained through "Procurement Pro," an online procurement management system produced by *National RTAP*. Procurement Pro is available through the following webpage:

http://www.nationalrtap.org/

Recipients are responsible for evaluating these requirements for relevance and applicability to each procurement. A master list of all federal clauses is included in the toolkits. *Recipients should work with the WisDOT Procurement Manager to ensure completeness of contract clauses.*

Listed below is the matrix of FTA required contract clauses and federal certifications.

Applicability of Third Party Contract Provisions
(Excluding micro-purchases, except for construction contracts over $2,000)

CLAUSE	***TYPE OF PROCUREMENT***				
	Professional Services/A&E	***Operations/ Management/ Recipients***	***Revenue Rolling Stock***	***Construction***	***Materials & Supplies***
No Federal government obligations to third-parties by use of a disclaimer	*All*	*All*	*All*	*All*	*All*
Program fraud and false or fraudulent statements and related acts	*All*	*All*	*All*	*All*	*All*
Access to Records	*All*	*All*	*All*	*All*	*All*
Federal changes	*All*	*All*	*All*	*All*	*All*

CLAUSE	TYPE OF PROCUREMENT				
	Professional Services/A&E	Operations/ Management/ Recipients	Revenue Rolling Stock	Construction	Materials & Supplies
Civil Rights (EEO, Title VI & ADA)	*All*	*All*	*All*	*All*	*All*
Incorporation of FTA Terms	*All*	*All*	*All*	*All*	*All*
Energy Conservation	*All*	*All*	*All*	*All*	*All*
Termination Provisions (not required of states)	*>$10,000*	*>$10,000*	*>$10,000*	*>$10,000*	*>$10,000*
Debarment and Suspension	*>$25,000*	*>$25,000*	*>$25,000*	*>$25,000*	*>$25,000*
Buy America			*>$150,000*	*>$150,000*	*>$150,000 (for steel, iron, manufactured products)*
Provisions for 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			*Involving property that may be transported by ocean vessel*	*Involving property that may be transported by ocean vessel*	*Involving property that may be transported by ocean vessel*
Fly America	*Involving foreign transport or travel by air*	*Involving foreign transport or travel by air*	*Involving foreign transport or travel by air*	*Involving foreign transport or travel by air*	*Involving foreign transport or travel by air*
Davis Bacon Act				*>$2,000 (including ferry vessels)*	
Copeland Anti-Kickback Act				*Section 1: All Section 2: >$2,000 (including ferry vessels)*	
Contract Work Hours & Safety Standards Act		*>$100,000*	*>$100,000*	*>$100,000 (including ferry vessels)*	
Bonding (not required of states)				*>$250,000 (including ferry vessels)*	
Seismic Safety	*A&E for new Buildings & additions*			*New buildings & additions*	

CLAUSE	TYPE OF PROCUREMENT				
	Professional Services/A&E	***Operations/ Management/ Recipients***	***Revenue Rolling Stock***	***Construction***	***Materials & Supplies***
Transit Employee Protective Arrangements		*Transit operations funded with Section 5307, 5309,5311 or 5316 funds*			
Charter Service Operations		*All*			
School Bus Operations		*All*			
Drug and Alcohol Testing		*Transit operations funded with Section 5307, 5309 or 5311 funds*			
Patent Rights	*Research & development*				
Rights in Data and Copyrights requirements	*Research & development*				
Disadvantaged Business Enterprises (DBEs)	*All*	*All*	*All*	*All*	*All*
Prompt Payment	*All non TVM purchases if threshold for DBE program met*	*All non TVM purchases if threshold for DBE program met*	*All non TVM purchases if threshold for DBE program met*	*All non TVM purchases if threshold for DBE program met*	*All non TVM purchases if threshold for DBE program met*
Recycled Products		*Contracts for items designated by EPA, when procuring $10,000 or more per year*		*Contracts for items designated by EPA, when procuring $10,000 or more per year*	*Contracts for items designated by EPA, when procuring $10,000 or more per year*
ADA Access	*A&E*	*All*	*All*	*All*	
Veterans Employment				*All*	
Special Notification Requirements for States	*Limited to states*	*Limited to states*	*Limited to states*	*Limited to states*	*Limited to states*
Privacy Act	*Contracts with personal identifier files*	*Contracts with personal identifier files*	*Contracts with personal identifier files*	*Contracts with personal identifier files*	*Contracts with personal identifier files*
Bus Testing			*All*		

REQUIRED CERTIFICATIONS, REPORTS, AND FORMS

(excluding micro-purchases, except for construction contracts over $2,000)

REQUIREMENT	COMMENTS	MASTER AGREEMENT REFERENCE***
Bus Testing Certification and Report	Procurements of buses and modified mass produced vans	§17.p(4)
Transit Vehicle Manufacturer Certification	Procurements of buses and modified mass produced vans	§13.d(3)
Buy America Certification	Projects >$150,000 that contain steel, iron or manufactured products (see note)	§16.a
Pre-Award Audit	Rolling stock procurements	§17.p(3)
Pre-Award Buy America Certification	Rolling stock procurements>$150,000(see note)	§17.p(3)
Pre-Award Purchaser's Requirement Certification	Rolling stock procurements	§17.p(3)
Post-Delivery Audit	Rolling stock procurements	§17.p(3)
Post-Delivery Buy America Certification	Rolling stock procurements >$150,000(see note)	§17.p(3)
Post-Delivery Purchaser's Requirement Certification	Rolling stock procurements	§17.p(3)
On-Site Inspector's Report	Rolling stock procurements for more than 10 vehicles for areas >200,000 in population and 20 for areas <200,000 in population	§17.p(3)
Federal Motor Vehicles Safety Standards Pre-Award and Post-Delivery Certification	Non-rail rolling stock procurements	§17.p(3)
Excluded Parties Listing System search	Procurements > $25,000	§3.b
Lobbying Certification	Procurements > $250,000	§3.d
Standard Form LLL and Quarterly Updates (when required)	Procurements > $250,000 where contractor engages in lobbying	§3.d

5. CONTRACT ADMINISTRATION

After the procurement is complete, the recipient is responsible for ensuring that the product or services procured are actually received.

The recipient should identify a person within their agency to oversee the contract and to be responsible for the following activities:

- Understand the nature of the solicitation, what was agreed to as part of the negotiations, and the structure and substance of the contract.
- Monitor the contract to ensure there is no scope creep, cardinal changes, or tag-ons.
    - Scope creep is when small changes in service levels or commodity purchases are made to multi-year agreements over a period of time, resulting in a large change from the original procurement.
    - Cardinal changes are major deviations from the original purpose of the work or the intended method of achievement, or a revision of contract work so extensive, significant, or cumulative that, in effect, the contractor is required to perform very different work from that described in the original contract.

- Tag-ons are adding quantities on to the contracted quantities (base and option) as originally advertised, competed, and awarded, whether for the use of the buyer or for others and then treating the add-on portion as though it met the requirement of the original competition.
- If modifications are required, complete the necessary paperwork listed in the appendices of the respective toolkit. Work with the person who conducted the procurement to complete the required paperwork.
- For additional information: FTA Circular 4220 Third-Party Contracting Guidance

- Track the progress of the project.
  - Document the progress, deliverables reached and decisions made.
    - If the contract requirements are not being met, document the areas of non-compliance. Discuss areas of non-compliance with the contractor, document the conversations and timeframe and deliverables of corrective actions. Discuss and document issues such as if the project is on time and on budget? If not, discuss and document what needs to happen to get it back on track?
  - Ensure that contract invoicing is consistent and compliant with contract provisions
  - Key documents in the contract administration file:
    - Statement of Work
    - Required Reports
    - Documentation necessary to review, approve and pay invoices
- Manage the project throughout the life of the contract.
  - If there are multiple years to the contract, know when the contract was executed, the original term of the contract (1 year or 2 years), were the options included in the contract, is a new solicitation needed. If it's in an option year, there is documentation needed to be completed a couple of months before the contract expires. If a new solicitation is needed, it should be started 6-12 months before the current contract expires.
  - If the contract has an option year(s), verify and document the following:
    - The price for the current year is fair and reasonable. Check the contract to see if there is an escalator/de-escalator based on Consumer Price Index (CPI) or Producer Price Index (PPI). If CPI or PPI is the only factor, and the contractor is willing to sign an *Exercise of Options* to extend the contract for another year at the existing price, submit written documentation supporting that decision.
    - If recipient does not execute an exercise of option year, then procurement must be resolicited.
    - Whether the contractor has performed as required in the contract. If not, consider resoliciting for a contractor that can perform satisfactorily.
    - The statement/scope of work for the next year. Check with all personnel that may be affected by the contract to verify completeness of the statement of work. Keep in mind, the scope of work must be consistent with the contract and should not include scope creep or cardinal changes.
    - Obtain signed federal clauses for each option year.
  - *For Commodities*
    - Verify the item received was the item on the purchase order. Complete any necessary paperwork and/or reporting. The recipient must ensure that the

commodity met the specifications and document in writing any changes that may have been made in the procurement process. If the item does not meet the contract requirements, notify the contractor immediately. Payment must be held from the contractor until all contract requirements are met.

- *For Services:*
  - Verify the service procured is thoroughly completed. A detailed statement of work must be included as part of the contract so both the recipient and the contractor understand the contract terms. Complete any necessary paperwork and/or reporting. If the service does not meet the contract requirements, notify the contractor in writing as soon as there is deviation from the contract. Develop a plan to allow the contractor to achieve compliance with the contract. A payment made for a service indicates acceptance that the service met all contractual requirements. Payment must be held from the contractor until all contract requirements are met.

6. MISCELLANEOUS TOOLS AND INFORMATION

This section presents additional templates to be used in procurements to communicate information between the procuring agency, prospective bidders or proposers, and WisDOT. *Note: Not all templates pertain to all procurements. The use of these templates are not specifically required by WisDOT.*

The templates are presented in the order shown below:

- ✓ Procuring Agency and Contracting Officer
- ✓ Request for Change or Approved Equal
- ✓ Acknowledgment of Addenda
- ✓ Offeror Service and Parts Support Data
- ✓ Proposal Deviation
- ✓ Pricing Schedule (provided to the procuring agency)
- ✓ Offer
- ✓ Award

Procuring Agency and Contracting Officer

Applicability: **This template is provided for your information as a suggested template. Its use is not specifically required by WisDOT.**

Summary Description: The "Procuring Agency and Contracting Officer" template provides prospective offerors with important information regarding the procurement including the agency's name, address, phone number, and the contact person or contracting officer. This template describes the type and scope of the procurement, and gives dates for communications with the agency, including pre-bid/proposal conference and proposal/bid due dates.

How to Use This Template: The procuring agency provides this information to offerors in the solicitation package and copies are kept in the agency's file for each procurement

Proposal/Request Number:	

Procuring Agency	
Name of Contracting Officer	
Address	
Phone	
Email	
Scope	*Example--Procuring Agency requests proposals for the manufacture and delivery of transit buses/spare parts in accordance with the terms and conditions set forth below. The Contract shall be a firm-fixed price Contract*.

Solicitation Schedule

The following is the solicitation schedule for Offerors:

Pre-Proposal Conference	Insert **Date** and **Time**
Offeror Communications Request	*Due at least **15 days** before proposal due date*
Proposal Due Date	Insert **Date** and **Time**

Pre-Proposal Conference

A pre-proposal conference will be held by the *Procuring Agency* at location following locations as specified in the "Solicitation Schedule".

Address of Pre-Proposal Conference	

Request for Change or Approved Equal

Applicability: **This template is provided for your information as a suggested template. Its use is not specifically required by WisDOT.** It is to be filled out by prospective offerors only if they need clarification of the solicitation specifications or if they want to request changes or substitutions in completing the bid/proposal package regarding the items being purchased. This template is identical for both the IFB and RFP procurement methods.

Summary Description: Prospective offerors have until the time indicated in the "Solicitation Schedule" to request clarification of specifications or addenda items, or changes or substitutions of brand names in items being purchased by the agency. The requests must be made in writing on the attached template as far in advance of the proposal due date as possible, and made only to the "Contracting Officer" of the procuring agency. The requests must include technical data to support any changes in the solicitation package. Verbal communication between the procuring agency and prospective offerors is to be done at the pre-bid/proposal conference. After that, all communication will be in writing only.

How to Use This Template: This template is to be sent in the bid package by the procuring agency with the IFB or RFP numbers included on the template. If prospective offerors submit the template to the procuring agency for changes or clarification, copies of the completed template must be kept in the procuring agency's file for each procurement.

Proposal/Request Number:	

Offeror Agency Name	
Contact Person	
Phone	
Email	
Solicitation Reference	
Page	
Section	
Questions/Clarifications or Approval Equal	

Procuring Agency Response:

Procuring Agency Response	*Indicate either* **Approved** *or* **Denied**
Comments	
Name of Contracting Officer	
Date:	

Acknowledgment of Addenda

Applicability: **This template is included as a suggested template and is not specifically required by WisDOT.** It is included in the solicitation package to prospective vendors. It should be signed by offerors and returned to the procuring agency to acknowledge any addenda to the bid or proposal specifications made by the procuring agency during the solicitation process. If an addendum is not acknowledged in writing on this template, the bid or RFP process may be considered nonresponsive and possibly rejected. This template is identical for both the IFB and RFP procurement methods.

Summary Description: The procuring agency may modify the solicitation document at any time. The "Acknowledgment of Addenda" template is a signed acknowledgment by the offeror that he/she has received any amendments made by the procuring agency. Changes made in the contract specifications will not be considered official unless they are made in writing by the procuring agency and acknowledged by the soliciting contractor on this template. The bid/proposal deadlines and bid opening dates may be affected by an addenda revision. The procuring agency may have to change the deadline to allow offerors time to revise their bids/proposals. The final deadline and bid opening date should be at least five (5) days after the last addendum.

How to Use This Template: Copies of this template returned by vendors must be kept in the procuring agency's procurement file for each procurement.

The undersigned acknowledges receipt of the following addenda to the documents:

Addendum No.			**Date**	
Addendum No.			**Date**	
Addendum No.			**Date**	
Addendum No.			**Date**	
Addendum No.			**Date**	

Offeror:

Contact Person	
Address	
Phone	
Email	
Date	
Signature	

Offeror Service and Parts Support Data

Applicability: **This template is included as a suggested template, not specifically required by WisDOT.** It should be filled out by all -prospective offerors as an informational piece for the procuring agency. This template is identical for both the IFB and RFP procurement methods.

Summary Description: This template is for prospective offerors to use in providing the procuring agency information regarding parts and services for the equipment to be purchased. The offeror will name the representative responsible for assisting the procuring agency in the area of service, as well as providing a listing of the names and locations of the nearest distribution and service centers to the procuring agency for parts and repair services.

How to Use This Template: Copies of completed templates must be kept in the procuring agency's file for each procurement.

Location of nearest ***Technical Service Representative*** to Procuring Agency

Name	
Address	
Phone	
Email	
Description of technical services available	

Location of nearest ***Parts Distribution Center*** to Procuring Agency

Name	
Address	
Phone	
Email	
Description of Parts Available at Distribution Center	

Policy for delivery of parts and components to be purchased for service and maintenance

Regular Method of Shipment	
Cost to Procuring Agency	

Template for Proposal Deviation

Applicability: **This template is suggested, but not required, by WisDOT.** It is used by the offeror when submitting any deviations to the original proposal when using ***an RFP Procurement method*.**

Summary Description: An offeror may submit to the procuring agency a proposal containing exceptions or alternative measures to the original procurement package with an explanation for each deviation and how it will meet the specifications. This alternative proposal will not be submitted in place of the original bid or proposal specifications, but in addition to it. For each alternative proposal, a Template for Proposal Deviation will be submitted along with a separate Price Schedule following Price Proposal Requirements.

How to Use This Template:
Copies of this template completed by the Contractor must be kept in the procuring agency's file for each procurement. The template shall be completed for each condition, exception, reservation or understanding (i.e., deviation) in the proposal. One copy without any price/cost information is to be placed in the technical proposal and a separate copy with any price/cost information placed in the price proposal.

Proposal/Request Number	
Deviation Number	

Offeror Agency Name	
Contact Person	
Phone	
Email	
Solicitation Reference	
Page	
Section	
Complete Description of Deviation	
Rationale *(Pros and Cons)*	

Pricing Schedule

Applicability: **This template is suggested, but not required, by WisDOT.** It is to be filled out by all prospective offerors and provided in the bid/proposal to the procuring agency. This template is identical for both the IFB and RFP procurement methods.

Summary Description: A breakout of the price of equipment of the goods and equipment being purchased must be provided by prospective offerors. The price schedule will include applicable local and state taxes as well as the delivery costs of the goods and services. The procuring agency may provide prospective offerors with a list of applicable local and state taxes for use in the price schedule.

How to Use This Template: Copies of this completed template must be kept in the procuring agency's file for each procurement.

Proposal/Request Number:	

Procuring Agency	
Name of Contracting Officer	
Address	
Phone	
Email	

Procuring Agency to insert **Pricing Schedule** developed in solicitation

Pricing Schedule

Offer

Applicability: **This template is suggested but not required by WisDOT.** It is to be filled out by the offeror when submitting a proposal or bid to the procuring agency. This template is identical for both the IFB and RFP procurement methods.

Summary Description: When this offer template is signed and submitted to the procuring agency, the proposing/bidding contractor offers to provide the goods and equipment specified in the solicitation documents. **The proposing/bidding contractor also agrees, that if selected, it will execute the three templates (pre-award audit, post-delivery audit and overall federal regulation compliance) the procuring agency is required to send to WisDOT.**

How to Use This Template: This template is included in the solicitation package to prospective offerors with the procuring agency's name and IFB or RFP numbers inserted. Offers made on this template by offerors are to be kept in the files of the procuring agency's file for each procurement.

Offeror Statement

By execution below the ***Offeror*** hereby offers to furnish equipment and services as specified in the Proposal/Request number listed below. Offeror also certifies that, if selected, it will execute the (3) three templates required by WisDOT.

Proposal/Request Number:	

Procuring Agency Name	
Contact Person	
Phone	
Email	

Offeror

Contact Person	
Address	
Phone	
Email	
Date	
Signature	

Award

Applicability: **This template is suggested but not required by WisDOT.** It is to be signed by the procuring agency when accepting and offer by a vendor. This template is identical for both the IFB and RFP procurement methods.

Summary Description: The formal acceptance of a vendor's offer by the procuring agency is done by signing the Award template. The award is either delivered in person or mailed to the successful contractor.

How To Use This Template: The signed Award Template must be kept in the files of the procuring agency's procurement file for each procurement.

By execution below, the Procuring Agency accepts the offer of the Offeror.

Proposal/Request Number:	
Date of Award:	

Procuring Agency	
Name of Contracting Officer	
Address	
Phone	
Email	
Signature of Contracting Officer	

Protest Procedure

Overview

Recipients shall have written protest procedures to handle and resolve disputes relating to their procurements over $50,000 and shall in all instances disclose information regarding the protest to WisDOT. All protests decisions must be in writing. A protester must exhaust all administrative remedies with the recipient before pursing a protest with WisDOT or FTA. WisDOT is responsible for notifying FTA.

Evaluating Bids

Evaluate bids in strict accordance with the stated WisDOT procurement toolkit requirements outlined in the toolkit and appendices for each procurement type. **It is imperative the toolkits and respective procurement steps are followed in chronological order.**

Procurement Toolkits - https://wisconsindot.gov/pages/doing-bus/local-gov/astnce-pgms/transit/procure.aspx

> Note: The document summarizes procedure steps related to protest situations. For completeness with state and federal procurement requirements recipients will use this document as a guide when following the specific protest steps for each procurement type as outlined in the WisDOT toolkits and appendices.

Definitions

"Filed" means, in reference to protests, the complete receipt of any document by a subrecipient before its close of business. Documents received after close of business are considered filed as of the next day. Unless otherwise stated, the subrecipient's close of business is presumed to be 4:30 p.m., local time.

"Interested party" means, for the purpose of filing a protest, an actual or prospective bidder or offeror whose direct economic interest would be affected by the award of a contract or by the failure to award a contract.

"Notice of Intent to Award" (NOI or NOIA) is a formal, announcement by a purchasing entity identifying the apparent successful bidder for a contract before the final award is made. It starts the protest period, notifies unsuccessful vendors, and signals that the procurement file is open for review. NOIs will state that the notice itself is not a contractual commitment, and the agency reserves the right to negotiate terms, conditions or price, where applicable. The procuring agency determines the distribution method of these notices, i.e. via email or mail.

"Protest" means a written objection by an interested party to any of the following:

1. A solicitation or other request by a subrecipient for bids or offers for a contract for the procurement of property or services.
2. The cancellation of the solicitation or other request.

3. An award or proposed award of the contract.
4. A termination or cancellation of an award of the contract, if the written objection contains an allegation that the termination or cancellation is based in whole or in part on improprieties concerning the award of the contract.

Protest Procedure Steps

After all the required procurement steps have been completed per procurement type, and the recipient is ready to issues a Notice of Intent to Award to the successful bidder, the recipient shall do the following:

Notify Unsuccessful Bidders

1. Recipients shall notify unsuccessful bidders in writing within (3) three working days after receiving approval to proceed with the contract award. Such notice shall thank the unsuccessful bidders for participating in the procurement, identify the winning bidder(s), and advise unsuccessful bidders where the bid abstract may be viewed. If award is made to other than the low bidder, the notice will state why the low bid was rejected.
2. If a protest is filed, the subrecipient shall comply with any local or WisDOT procedures to "stay" the award, address the merits of the protest, and make a determination concerning the protest.
3. Requests for records (e.g., Freedom of Information Act, etc.) shall be handled incompliance with local and/or WisDOT regulations and procedures.

Protests Before or After Award

Recipients must consider all protests and consult in a timely manner with WisDOT, irrespective of whether protests are submitted before or after contract award. A protester must exhaust all administrative remedies with the subrecipient before pursuing a protest with WisDOT or FTA.

Protests based on alleged apparent improprieties in a solicitation or violation of administrative code must be filed with the subrecipient before bid opening or the closing date for receipt of proposals. In all other cases, protests must be filed no later than (10) ten days after the intent to award a contract notification.

To facilitate review by the subrecipient and by WisDOT, protests must be concise and logically presented. Failure to substantially comply with any of the requirements listed below may be grounds for dismissal of the protest.

Protests must include the following information:

1. The protestor's name, address, and email and telephone numbers.
2. Solicitation or contract number.
3. Detailed statement of the legal and factual grounds for the protest, identifying the specific Wisconsin Administrative Code Provisions that are alleged to have been violated.
4. Copies of relevant documents.
5. Request for a ruling by the subrecipient.
6. Statement as to the form of relief requested.

7. 7. All information establishing that the protester is an interested party for the purpose of filing a protest.
8. All information establishing the timeliness of the protest.

After receiving a protest, the subrecipient must:

1. **If, before contract award, not make contract award, pending resolution of the protest.** However, award may be made if such action is justified, in writing, for urgent and compelling reasons or it is determined, in writing, to be in the subrecipient's best interest to do so. In these instances, in addition to any local approval requirements, WisDOT must approve the justification or determination prior to any action to award the contract.

2. **If, withholding contract award pending agency resolution of the protest, inform the bidders or offerors** whose bids/offers might become eligible for award of the contract. If appropriate, the bidders/offerors should be requested, before expiration of the time for acceptance of their bids/offers, to extend the time for acceptance to avoid the need for re-soliciting the procurement. If bidders/offerors fail to grant such time extensions, the subrecipient may consider proceeding with award but only with the appropriate local and WisDOT approvals to do so.

3. **If, the protest is received within 10 days after contract award, immediately suspend contract performance.** However, contract performance may continue, pending resolution of the protest, if continued performance is justified, in writing, for urgent and compelling reasons or it is determined, in writing, to be in the best interest of the subrecipient. In addition to any local approval requirements, WisDOT must approve such justification or determination.

Subrecipient's must make their best efforts to resolve protests filed with the subrecipient within 30 days after the protest is filed. Unless otherwise prohibited by law, the parties may exchange relevant information. To help facilitate timely WisDOT action, subrecipient protest decisions must be well reasoned, factually accurate and complete, and fully explain the subrecipient's position. The final protest decision must be provided to the protester using a method that provides evidence of receipt.

Document the Protest
Complete the **Procurement History File Checklist** and insert any protest letters, decisions, or related documents.