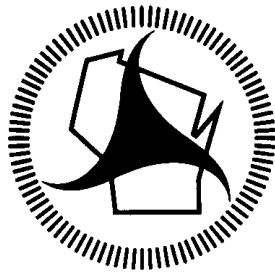


PROCUREMENT MANUAL

**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 AND LOCAL ROADS**

(Updated March 2009)

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

Introduction

State and federal regulations regarding procurement of goods and services are complex, detailed, and often change to reflect changes in legislation. For local government officials administering federal grants, it is sometimes difficult to maintain current knowledge of these requirements to ensure their municipality's compliance. However it is very important that local units of government conduct their procurements in a manner which is consistent with all pertinent federal regulations. When a local unit of government contracts for and accepts capital assistance funds they also accept the responsibility of maintaining oversight of the procurement process and assuring its federal compliance. It is for this reason that the Wisconsin Department of Transportation (WisDOT) offers this manual in an effort to assist and guide local officials through the procurement process.

In accordance with the U.S. Department of Transportation, Federal Transit Administration (FTA) requirements, WisDOT has developed this procurement manual to assist grant subrecipients with the procedures to acquire goods and services funded by capital or operating grant programs. These procedures govern procurement activities under the following grant programs administered by WisDOT:

- Section 5307 Urban Area Formula Program (as noted)
- Section 5309 Major Capital Program (as noted)
- Section 5311 Nonurban Area Formula Program

Federal grant recipients shall comply with all applicable requirements under FTA program administration regulations including:

- Circular 4220.1F. Third Party Contracting Requirements
http://www.fta.dot.gov/documents/FTA_Circular_4220.1F_-_Finalpub1.pdf
- Circular 5010 Grant Management Guidelines
http://www.fta.dot.gov/documents/C_5010_1D_Finalpub.pdf
- Circular 9030 Urbanized Area Formula Program
http://www.fta.dot.gov/laws/circulars/leg_reg_4125.html
- Circular 9040 Non-Urbanized Area Formula Program Guidance/Grant Application Instructions
http://www.fta.dot.gov/documents/FTA_C_9040.1F.pdf
- Circular 9070 The Elderly and Persons with Disabilities Program
<http://www.fta.dot.gov/documents/C9070.1F.pdf>
- Best Practices Procurement Manual
http://www.fta.dot.gov/documents/BPPM_fulltext.pdf
- Master Agreement
<http://www.fta.dot.gov/documents/15-Master.pdf>

Subrecipients are instructed to follow FTA Circular 4220.1F Third Party Contacting Guidance and the FTA Best Practices Procurement Manual. Subrecipients are required to have all stages of the procurement reviewed and approved by WisDOT.

This manual is not intended to be an “all-inclusive” source of information. There may be instances in which subrecipients experience procurement activities or situations not addressed in this manual. We encourage you to contact WisDOT staff (see Appendix I) for assistance with your procurement.

Content and Applicability

For the convenience of our subrecipients, we have divided this manual into *five* main sections.

Section One is an overview of the procurement process including: general procurement procedures, a subrecipient checklist, and a diagram of the WisDOT procurement review and approval process. The checklist offers an outline of the procurement process to follow. Necessary forms, certifications, and documentation for WisDOT review are also identified in the checklist.

Section Two of the manual provides more detail with regard to the procurement process and the reimbursement process.

Section Three provides a description of several important federal requirements relating to the procurement of goods and services, and the related documentation required for WisDOT review.

Section Four contains a description of procedures for the procurement of *specific types of goods and services* such as vehicles and equipment, consultant services, transportation services, etc.

Section Five is the Appendix, which contains a copy of the most recent FTA Circular 4220.1F Third Party Contracting Requirements, forms *required* by WisDOT, and samples of other forms used in the procurement of goods or services. The Appendix also includes a listing of contact persons, a glossary, and other references so that subrecipients can obtain further direction and/or guidance. Appendix I lists WisDOT staff available to assist with subrecipient procurement questions.

This manual is intended to assist subrecipients with their procurement of services, vehicles and equipment while ensuring compliance with state and federal procurement regulations. To facilitate your procurement, we recommend that you become familiar with the contents of this manual and follow these essential steps:

1. Review the subrecipient Procurement Process Checklist and grant contract language;
2. Become familiar with the procurement process details described in Section Two;
3. Contact WisDOT staff with your concerns or questions; and
4. Complete each requirement, including local documentation, and transmit the documentation to WisDOT for review and concurrence. To avoid delays in the procurement process, provide complete and accurate information with your submittal.

In addition, subrecipients are encouraged to become familiar with the FTA circulars applicable to their funding programs as well as the FTA Best Practices Procurement Manual. Copies of these publications can be obtained from FTA's Regional Office in Chicago, IL. They also are available through the internet at FTA's web site: www.fta.dot.gov. Because of the importance of meeting the requirements of Circular 4220.1F Third Party Contracting Requirements, a copy is included in Appendix A.

TABLE OF CONTENTS

1. <u>OVERVIEW OF PROCUREMENT REQUIREMENTS</u>	1.1
1.1 GENERAL PROCUREMENT REQUIREMENTS.....	1.1
1.2 SUBRECIPIENT PROCUREMENT PROCESS CHECKLIST	1.4
1.3 FEDERAL REQUIREMENTS	1.5
1.4 SUPPLEMENTAL FEDERAL PROCUREMENT REQUIREMENTS.....	1.8
1.5 COMPETITIVE PROCUREMENT STANDARD REQUIREMENTS	1.9
1.5.1 Procurement Standard Procedures:	1.9
1.5.2 Certifications and Forms to be Included in the Procurement Packet	1.9
1.6 WISDOT PROCUREMENT REVIEW PROCESS.....	1.11
2. <u>SUBRECIPIENT PROCUREMENT PROCESS DETAILS</u>	2.1
2.1 TO DO BEFORE PROCUREMENT PROCESS.....	2.1
2.1.1 Determine the Scope of the Procurement.....	2.1
2.1.2 Identify Who Needs to be Involved	2.1
2.1.3 Plan the Procurement Process	2.2
2.1.4 Decide on the Method of Procurement: IFB or RFP.....	2.2
2.2 PROCUREMENT PACKET PREPARATION	2.3
2.2.1 Convene a Review Committee	2.3
2.2.2 Develop Draft IFB or RFP (including all required clauses).....	2.3
2.2.3 Develop Technical Specifications and/or Scope of Work.....	2.5
2.2.4 Identify Potential Bidders/Proposers.....	2.5
2.2.5 Develop Evaluation Process and Criteria	2.5
2.2.6 Develop Protest Procedures	2.5
2.2.7 Finalize Draft of Bid Package	2.6
2.2.8 WisDOT Review and Approval of Procurement Packet.....	2.7
2.3 CONDUCTING THE PROCUREMENT	2.7
2.3.1 Finalize IFB/RFP Package	2.7
2.3.2 Advertising and Notifying Potential Bidders/Proposers	2.7
2.3.3 Conduct a Pre-Bid or Pre-Proposal Conference (Optional)	2.8
2.3.4 Procedures for “Approved Equals” (If Applicable)	2.8
2.3.5 Pre-Bid/Pre-Proposal Approved Equals Protests Procedures (If Applicable).....	2.8
2.3.6 Bid/Proposal Deadline and Acceptance by the Procuring Agency	2.8
2.4 PRE-AWARD REVIEW AND CONCURRENCE PROCESS.....	2.9
2.4.1 Re-Convene Review Committee	2.9
2.4.2 Review Evaluation Process and Criteria	2.9
2.4.3 Evaluate Bids/Proposals for Required Elements/Responsiveness.....	2.9
2.4.4 WisDOT Notified of Intent to Award	2.11
2.4.5 Notify Selected and Rejected Bidders/Proposers	2.12
2.4.6 Handle Intent to Award Protests Using the Local Process.....	2.12
2.5 POST-AWARD AND POST-DELIVERY ACTIVITIES.....	2.13
2.5.1 Issue Purchase Order or Service Contract to Selected Bidder/Proposer	2.13
2.5.2 Monitor Contractor Activities (If Applicable)	2.13
2.5.3 Post-Delivery Inspection of Capital Equipment Purchases.....	2.13
2.5.4 Complete Post-Delivery Audit Forms	2.13

2.5.5 Acceptance, Warranty and Service Arrangements Made with Contractor.....2.13

2.5.6 Showing WisDOT as Lien-Holder.....2.14

2.5.7 Payment/Reimbursement of the Federal Portion of the Purchase Cost.....2.14

3. DETAILED FEDERAL REQUIREMENTS3.1

3.1 BUY AMERICA STANDARD REQUIREMENTS3.1

3.2 PROCUREMENT INTEGRITY STANDARD REQUIREMENTS3.2

3.3 RESTRICTIONS ON LOBBYING STANDARD REQUIREMENTS3.2

3.4 BUS TESTING REQUIREMENTS.....3.3

3.5 AMERICANS WITH DISABILITIES ACT REQUIREMENTS.....3.4

3.6 DRUG AND ALCOHOL TESTING REQUIREMENTS.....3.4

3.7 FEDERAL MOTOR VEHICLE SAFETY STANDARDS.....3.5

3.8 DISADVANTAGED BUSINESS ENTERPRISE (DBE) REQUIREMENTS3.6

4. PROCUREMENT PROCEDURES4.1

4.1 PROCEDURE FOR PURCHASE OF CAPITAL EQUIPMENT UNDER \$10,0004.2

4.2 PROCEDURE FOR THE PURCHASE OF CAPITAL EQUIPMENT OR ROLLING STOCK OF \$10,000 OR MORE4.4

4.3 PROCEDURE FOR THE PROCUREMENT OF TRANSPORTATION SERVICES OR CONSULTANT SERVICES.....4.7

4.4 PROCEDURE FOR THE PURCHASE OF USED CAPITAL EQUIPMENT OR ROLLING STOCK4.12

4.5 PROCEDURE FOR REFURBISHING VEHICLES - UNDER \$10,000 COST4.13

5. APPENDIX

5.1 APPENDIX A - FEDERAL CIRCULAR 4220.1F THIRD PARTY CONTRACTING REQUIREMENTS

5.2 APPENDIX B - FEDERALLY REQUIRED & OTHER MODEL CONTRACT CLAUSES

5.3 APPENDIX C - SUMMARY OF FTA CLAUSES FOR VEHICLE PURCHASES

5.4 APPENDIX D - PROCUREMENT PACKAGE REQUIRED FORMS

5.5 APPENDIX E - WisDOT SUGGESTED FORMS

5.6 APPENDIX F- WisDOT PROCUREMENT PROCESS CHECKLISTS

5.7 APPENDIX G - WisDOT AVL/ITS POLICY

5.8 APPENDIX H - WisDOT TAXI MANAGEMENT FEE POLICY

5.9 APPENDIX I - WisDOT CONTACTS AND OTHER RESOURCES

1. OVERVIEW OF PROCUREMENT REQUIREMENTS

1.1 GENERAL PROCUREMENT REQUIREMENTS

When the subrecipient intends to conduct a procurement of goods or services funded with an FTA grant, it is the responsibility of that subrecipient to manage the entire procurement process and ensure its compliance with relevant FTA requirements. This section of the manual provides a summary of the requirements that subrecipients must comply with in the procurement of goods or services. More detailed information on each of these requirements can be found in subsequent sections of this manual.

WisDOT specifies in capital contracts that the subrecipient must complete all purchases within a period of three years. The funds will lapse at the end of the three year period if the subrecipient has not implemented all purchases. WisDOT may however exercise its discretion to approve an extension to a grant contract, on a case-by-case basis, and depending on the type of purchase (e.g. facility construction), if the subrecipient demonstrates that “reasons beyond its control” - lack of planning excluded - prevented compliance with this requirement and the subrecipient 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.

WisDOT federal grant subrecipients must comply with the general procurement standards applicable to Third Party Procurements as described in FTA Circular 4220.1F Third Party Contracting Requirements (see Appendix A). These requirements are listed below and are discussed in more detail later in this section and in Appendix A:

1. Conformance with State and Local Law
2. Contract Administration System
3. Written Standards of Conduct
4. Ensuring Most Efficient and Economic Purchase
5. Intergovernmental Procurement Agreements
6. Use of GSA Schedules And Excess Or Surplus Federal Property
7. Use of Value Engineering in Construction Contracts
8. Awards to Responsible Contractors
9. Written Record of Procurement History
10. Use of Time and Materials Type Contracts
11. Subrecipient Responsible for Settlement of Contract Issues/Disputes
12. Written Protest Procedures
13. Contract Period of Performance Limitation to Five (5) Years Inclusive of Options
14. Full and Open Competition
15. Prohibition Against Geographic Preferences
16. Written Procurement Selection Procedures
17. Pre-Qualification Criteria
18. Options

In addition to ensuring adequate and open competition for federally funded purchases of goods or services, WisDOT federal grant subrecipients must ensure bidder/proposer compliance with applicable federal regulations including, among others:

-
- American with Disabilities Act
 - Buy America
 - Drug and Alcohol Testing
 - Bus Testing
 - Federal Motor Vehicle Safety Standards
 - Davis Bacon Labor Standards
 - Debarment and Suspension
 - Lobbying
 - Bonding Requirements

While working within the framework of WisDOT and FTA guidelines, WisDOT federal grant subrecipients are responsible for developing all procurement documents and specifications. As a starting point for subrecipients, we offer the Subrecipient Procurement Process Checklist found in Section 1.2. This checklist contains the basic steps of the procurement process. The items are grouped according to the following major categories:

- To Do Before the Procurement Process
- Procurement Packet Preparation
- Conducting the Procurement
- Pre-Award Review and Concurrence Process
- Post- Award and Post-Delivery Activities

Please note that not all of the items in the checklist are required for every procurement. For the benefit of the local official managing the procurement, the items included in the checklist are explained in more detail in Section Two of this manual.

Under the FTA Common Rule, States administer grants following their own requirements, which *can* be more restrictive than those of FTA. In Section Four of this manual State procurement procedures are incorporated into subrecipient procurement documents and processes.

We recommend that you use the Subrecipient Procurement Process Checklist as the framework for your procurement process. You should incorporate suggested, as well as the required, elements in your procurement documents. The suggested elements are based upon the Standard Bus Procurement Guidelines published by the American Public Transit Association (APTA) and from FTA's Best Practices Procurement Manual.

The details of “what to do before the procurement process” will be discussed in later sections of this manual. However, early in the procurement process, subrecipients must arrive at a “best estimate” of the procurement cost. The total procurement cost determines the type of procurement process that must be followed.

- If the ***total purchase is less than \$25,000***, the procurement process is less complicated. The subrecipient may obtain quotations and signed certifications from bidders/proposers. Following delivery and subrecipient acceptance of the goods or services, reimbursement is processed and the purchase is completed.
- When the ***total purchase exceeds \$25,000***, the subrecipient must follow a more detailed process to obtain the goods or services.

The responsibility for documentation of the procurement process rests with the *recipient* of the grant (often times the recipient is WisDOT, depending on grant program). Files must be maintained on all procurement actions. The *subrecipient's* procurement files must be sufficiently detailed to sustain an

audit by FTA or WisDOT. Files should contain a “paper trail” which clearly documents what goods or services were purchased, and documents the associated costs. The files must also document compliance with FTA and WisDOT requirements. FTA requires recipients and subrecipients to maintain procurement files and grant files for a period of not less than three years *from the closing of the grant*. This means that the subrecipient should maintain grant files for at least seven years following each purchase.

1.2 SUBRECIPIENT PROCUREMENT PROCESS CHECKLIST

TO DO BEFORE THE PROCUREMENT PROCESS

- _____ Determine Scope of Procurement
- _____ Identify Who Needs to be Involved
- _____ Plan The Procurement Process
- _____ Decide on the Method of Procurement: IFB or RFP

PROCUREMENT PACKET PREPARATION

- _____ Convene Review Committee
- _____ Develop Draft IFB or RFP, including all required clauses
- _____ Develop Technical Specifications and/or Scope of Work
- _____ Identify Potential Bidders/Proposers
- _____ Develop Evaluation Process and Criteria
- _____ Develop Protest Procedures
- _____ Finalize Draft of Bid Package
- _____ **WisDOT Review and Approval of Procurement Packet**

CONDUCTING THE PROCUREMENT

- _____ Finalize IFB/RFP Package
- _____ Advertising And Notifying Potential Bidders/Proposers
- _____ Conduct Pre-Bid or Pre-Proposal Conference (Optional)
- _____ Procedures for Approved Equals (If Applicable)
- _____ Pre-Bid/Pre-Proposal Approved Equals Protests Procedures (If Applicable)
- _____ Bid/Proposal Deadline and Acceptance by the Procuring Agency

PRE-AWARD REVIEW AND CONCURRENCE PROCESS

- _____ Re-Convene Review Committee
- _____ Review Evaluation Process and Criteria
- _____ Evaluate Bids/Proposals for Required Elements/Responsiveness
- _____ **WisDOT Notified of Intent to Award**
- _____ Notify Selected and Rejected Bidders/Proposers
- _____ Handle Intent to Award Protests Using the Local Process

POST-AWARD AND POST-DELIVERY ACTIVITIES

- _____ Issue Purchase Order or Service Contract to Selected Bidder/Proposer
- _____ Monitor Contractor Activities (If Applicable)
- _____ Post-Delivery Inspection of Capital Equipment Purchases
- _____ Complete Required Post-Delivery Audit Forms
- _____ Acceptance, Warranty and Service Arrangements Made with Contractor
- _____ Vehicle Title/Registration - Showing WisDOT as Lien-Holder
- _____ Payment/Reimbursement of the Federal Share of Purchase Cost

1.3 FEDERAL REQUIREMENTS

Subrecipients must comply with all applicable federal procurement requirements when procuring goods and services with FTA funds. The applicability of certain requirements depends upon the nature and value of the purchases and several important requirements are explained in more detail in Section 3 of this manual. The following general requirements are established in FTA Circular 4220.1F Third Party Contracting Requirements (refer to Appendix A for a complete text of Circular 4220.1F):

1. **Conformance with State and Local Law** - Subrecipients 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 4220.1F Third Party Contracting Requirements.
2. **Contract Administration System** - Subrecipients 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.
3. **Written Standards of Conduct** - Subrecipients shall maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. No employee, officer, agent, immediate family member, or board member of the grantee shall participate in the selection, award, or administration of a contract supported by FTA funds if a conflict of interest, real or apparent, would be involved.
4. **Ensuring Most Efficient and Economic Purchase** - Subrecipients 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.
5. **Intergovernmental Procurement Agreements** - To foster greater economy and efficiency, subrecipients 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 4220.1F Third Party Contracting Requirements apply to procurements entered into under such agreements using FTA funds.
6. **Use of GSA Schedules And Excess Or Surplus Federal Property** - Once GSA develops procedures, State and local grantees may use Federal supply schedules (FSS) 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. Subrecipients must contact GSA for guidance on using the GSA supply schedules.
7. **Use of Value Engineering in Construction Contracts** - Subrecipients 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.
8. **Awards to Responsible Contractors** - Subrecipients shall make awards only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a

proposed procurement. Consideration shall be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

9. **Written Record of Procurement History** - Subrecipients shall maintain records detailing the history of a procurement. At a minimum, these records shall include:
- the rationale for the method of procurement,
 - selection of contract type,
 - reasons for contractor selection or rejection, and
 - the basis for the contract price
10. **Use of Time and Materials Type Contracts** - Subrecipients 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.
11. **Responsibility for Settlement of Contract Issues/Disputes** - Subrecipients alone will be responsible in accordance with good administrative practice and sound business judgment for the settlement of all contractual and administrative issues arising out of procurements.
12. **Written Protest Procedures** - Subrecipients 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 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.
13. **Contract Period of Performance Limitation** - Subrecipients shall not enter into any contract with a period of performance exceeding five (5) years inclusive of options without prior written FTA approval.
14. **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.
15. **Prohibition Against Geographic Preferences** - Subrecipients 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.

16. Written Procurement Selection Procedures - Subrecipients 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.
- Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equal" description may be used.
- A grantee shall 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. Further, a grantee 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 offerors must fulfill and all other factors to be used in evaluating bids or proposals.

17. Pre-Qualification Criteria - Subrecipients 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, subrecipients shall not preclude potential bidders/proposers from qualifying during the solicitation period, which is from issuance of the solicitation to its closing date.

18. Options - Subrecipients may include options in contracts. An option is a unilateral 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 subrecipient 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:
 - A grantee 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.
 - 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.

1.4 SUPPLEMENTAL FEDERAL PROCUREMENT REQUIREMENTS

The following are supplemental federal procurement requirements that subrecipients must comply with. Most subrecipient procurements will involve one or more of these requirements.

1. **Procurement procedures** - The subrecipient must have written procurement procedures. The procurement procedures must contain protest procedures. The procurement procedures shall provide for a review of a procurement to avoid duplicative or unnecessary purchases. The procedures shall include all FTA procurement requirements or generally reference FTA requirements. *The purchase of extended warranties or ineligible service agreements with capital grant funds is prohibited.*
2. **Ethical Standards of Conduct** - The subrecipient shall have written standards of conduct regarding potential conflicts of interest.
3. **FTA Required Clauses** - FTA required clauses must be included in the subrecipient procurement process (see Appendix B). The subrecipient intergovernmental agreements for the purchase of goods and services shall have an assignability clause. Any procurements where “piggy-backing” may be 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. In addition, the procurement documents shall contain a minimum and maximum quantity of deliverables. Any contract clauses that unduly restrict competition are prohibited. If a subrecipient 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 subrecipient procurements is mandatory.
4. **Construction Contracts Over \$100,000** - For construction contracts over \$100,000, FTA-accepted local bonding requirements must be met.
5. **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 subrecipient’s third party contract for services funded with federal dollars.
6. **Progress Payments** - Progress payments are not allowed unless the subrecipient has obtained title or possession of the property or taken alternative steps to protect the subrecipient's interest.
7. **Procurement of Buses** - If the subrecipient is purchasing a bus, it must make a determination that the bus has been tested as required prior to the expenditure of FTA funds. If the bus model does not require testing, the subrecipient must obtain a certification from the *manufacturer* (not the vehicle dealer) that the bus does not need to be tested.

1.5 COMPETITIVE PROCUREMENT STANDARD REQUIREMENTS

Subrecipients shall ensure that competitive procurements conform to applicable federal and state laws. The following are WisDOT's minimum standards for competitive procurement.

1.5.1 Procurement Standard Procedures:

Subrecipient procurement standards and procedures must be written and shall provide for open competition. In addition, these documents shall reference standards of conduct in procurement, provide for a review of procurements to ensure against the purchase of duplicative or unnecessary items, contain protest procedures and foster cost-effective purchases. The subrecipient contract administration system shall provide for contractor compliance with the terms, conditions, and specifications spelled out in the contract or purchase order. Subrecipient procurement processes shall provide for adequate documentation of:

- Justification for bidder/proposer selection
- Inclusion of required clauses
- Use of options
- Prohibitions on certain types of payments
- Use of liquidated damages

For bus procurements, in addition to the documentation above, subrecipient procurement processes shall provide for:

- Compliance with bus testing requirements (Altoona Test).
- Compliance with pre-award and post-delivery requirements (Buy America).
- Compliance with Federal Motor Vehicle Safety Standards.

All subrecipients shall certify annually that their procurement systems meet FTA requirements and that they will abide by FTA rules and regulations with respect to the procurement of goods or services. In their annual certification to WisDOT (as part of the operating grant application process), subrecipients certify that their procurements will comply with statutory and regulatory requirements.

1.5.2 Procurement Procedure for Administration and Record Keeping

Grant recipients should ensure that all documentation related to procurement actions are properly documented and maintained to reflect the history of procurement. Please see FTA Circular 4220.1F for additional guidance.

1.5.3 Certifications and Forms to be Included in the Procurement Packet

Specific federal certifications and forms which must be included in WisDOT federal grant subrecipients' procurement documents are identified below. They will vary by type and value of the procurement, and by funding source. Required forms & certifications are listed in bold type. The forms and their use are discussed in Appendices D and E.

1.5.3.1 Purchases Under \$100,000

- _____ Overall Federal Regulation Compliance
- _____ Certification of Compliance with Bus Testing Requirements
- _____ Compliance with Specifications
- _____ Procuring Agency and Contracting Officer
- _____ Request for Change or Approved Equal
- _____ Acknowledgment of Addenda
- _____ Offeror Service and Parts Support Data
- _____ Form for Proposal Deviation
- _____ Pricing Schedule
- _____ Offer and Award

** More detailed checklists are included in Appendix F*

1.5.3.2 Purchases Over \$100,000

- _____ Overall Federal Regulation Compliance
- _____ Certification of Compliance with Bus Testing Requirements
- _____ Compliance with Specifications
- _____ Buy America Certification
- _____ Debarment and Suspension Certification
- _____ Lobbying Certification
- _____ DBE Certification (\$250,000 Threshold)
- _____ Pre-Award/ Post-Delivery Buy America Certification
- _____ Pre-Award/ Post-Delivery Purchaser's Requirements Certification
- _____ Pre-Award/ Post-Delivery FMVSS Compliance or Exemption Certification
- _____ Post-Delivery Purchaser's Requirements Certification for More Than Ten Buses or Modified Vans
- _____ Procuring Agency and Contracting Officer
- _____ Request for Change or Approved Equal
- _____ Acknowledgment of Addenda
- _____ Offeror Service and Parts Support Data
- _____ Form for Proposal Deviation
- _____ Pricing Schedule
- _____ Offer and Award

** More detailed checklists are included in Appendix F*

1.6 WISDOT PROCUREMENT REVIEW PROCESS

WisDOT considers the subrecipient procurement to be a local process. The subrecipient 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 subrecipient's procurement process:

- 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 subrecipient submittal to WisDOT are included in Appendix D. Appendix F contains checklists WisDOT will use in monitoring a subrecipient's procurement process. The three checklists are to be completed by the subrecipient at appropriate stages in the procurement process and forwarded to WisDOT. Contact the WisDOT staff listed in Appendix I if you have questions or need additional information.

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WisDOT PROCUREMENT REVIEW PROCESS

LOCAL PLANNING PROCESS

PRE-BID / RFP REVIEW PROCESS

- Subgrantee develops procurement packet and submits to WisDOT
- WisDOT staff reviews packet for compliance with federal (ADA, Buy America, FMVSS, etc.) and state requirements
- WisDOT authorizes subrecipient to solicit Bids/Proposals

LOCAL BID / RFP PROCESS

BID / RFP PRE-AWARD REVIEW

- Subgrantee provides bid /proposal tabulation of results and selected/desired vendor / firm along with required documentation for WisDOT review
- Following approval, WisDOT sends concurrence letter to subrecipient
- Subrecipient awards the contract

PURCHASE & DELIVERY COMPLETED

POST-DELIVERY ACTIVITIES

- Upon delivery, the subgrantee completes a post-delivery audit (including inspection, if a vehicle or equipment purchase)
- Subrecipient submits reimbursement request and supporting documentation to WisDOT for payment of federal dollars
- If everything is in order, WisDOT issues a reimbursement check to subrecipient

2. SUBRECIPIENT PROCUREMENT PROCESS DETAILS

This section of the manual is intended to explain the requirements of the Subrecipient Procurement Process. The information is presented in the order of the requirements as shown on the checklist in Section 1 of this manual.

2.1 TO DO BEFORE PROCUREMENT PROCESS

2.1.1 Determine the Scope of the Procurement

To begin your procurement, you first need to determine the scope of the procurement and review your grant request. What are your goals? What are you trying to accomplish? Clearly stated goals will help you make effective decisions regarding the scope of the procurement and what and how much to purchase. The scope of your procurement should coincide with your approved grant contract from WisDOT. Once the goals of your procurement are clear, detailed specifications and a procurement packet can be developed.

2.1.2 Conduct an Independent Cost Estimate

Grantees must perform an independent cost or price analysis in connection with every procurement action. As a starting point, grantees must make independent cost estimates before receiving bids and proposals (FTA C4220.1F, Ch. VI, 6)

2.1.3 Conduct a Price Analysis, when Appropriate

In the event a cost-analysis is inadequate, grantees must perform a price analysis. Please see FTA C4420.1F for more information.

2.1.4 Identify Who Needs to be Involved

Internal Agency Involvement

Early in the procurement process you should identify the individuals who will be involved. Early attention to this issue will facilitate the overall process and save time in the long term. Depending on the type of procurement being considered, **different functional areas in your organization should have input into the process.** 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 responsibilities should be considered:

- Department initiating the procurement for items to be purchased
- Technical information and requirements
- Required forms, incentives, performance standards, evaluation criteria and desired timetable
- Drivers and maintenance personnel for technical input related to vehicles;
- Finance for invoicing and payment scheduling;
- Legal for contracts, bonding, insurance, certification, procurement timetable

It will be important to evaluate your internal capabilities to determine whether or not outside resources will be needed to assure an effective procurement process.

External Resources

If your agency is small and has limited procurement experience, you may need outside help. 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 your community or neighboring communities, and state and federal officials. An initial primary resource should be the staff at WisDOT's Public Transit Section. WisDOT also recommends that the bid /RFP packet be reviewed by your transit committee to make sure the type of goods or services you are procuring meets the needs of your community.

One way to reduce the need for outside assistance is to include language in the procurement package which require contractors to assume responsibility for compliance with certain process elements included in the bid or RFP. Keep in mind that you, as the subrecipient of federal funds and the administrator of the procurement contract, have the ultimate responsibility for compliance with all requirements of the procurement process.

2.1.5 Plan the Procurement Process

Once you have identified the individuals who need to be involved, a meeting should be held to plan the steps in the procurement process. Your meeting should address the following items:

- 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 for your working group

Your internal committee should meet as needed during the procurement process.

2.1.6 Decide on the Method of Procurement: IFB or RFP

Up to this point we have been referring to bids or proposals and Bids or RFP's. The differences are explained below. With your procurement of goods or services, an important initial consideration must be the type of procurement method you will use. The two basic methods are the Invitation for Bid (IFB) and the Request for Proposal (RFP).

Invitation for Bid (IFB)

This is 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 could be easily developed. The IFB process must involve two or more bidders, and the award is given to the lowest responsive and responsible bidder. The specifications for goods and/or services to be procured under an IFB are not subject to negotiation. Bids which deviate from the specifications are deemed unresponsive and thus rejected. Typically, the IFB includes two parts, technical and financial. Bidder responses to each part are evaluated separately. Bids which deviate

from the specifications would not be rejected if the deviations have been accepted through an “approved equals process.” Additional information regarding approved equals can be found in Section 2.3.4 and Appendix E - WisDOT Suggested Forms.

Request for Proposal (RFP)

The RFP is a competitive procurement method used 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 without detailed design specifications. The primary consideration in awarding a contract ***need not be price***. Equitable communication with proposers may be used (such as interviews, presentations, and negotiations) to reach an optimal contractual agreement, in which both price and quality are used in the contractor selection. In this way the technical expertise and the experience of the proposer can be evaluated. When using an RFP method, bidders typically submit a Statement of Work and separate Cost Proposal.

Alternatively, a Request for Qualifications (RFQ) process can be used. The RFQ process provides information on the background and experience of the proposer. This process is then followed by an RFP process, if more than one qualified bidder is available. Frequently, the RFQ and RFP process is combined into a single “RFP” document. Further details about the RFQ/RFP processes are presented later in this section.

Contractors have flexibility under the RFP process in how the goods and/or services are produced, and the award is based on an evaluation of price and quality. The RFP method is used typically for planning and engineering studies, or for contracting with architectural and engineering firms. Broader scope procurements where every detail of the work to be done cannot be specified, and/or when creativity on the part of the proposer is desired, are generally conducted utilizing an RFP method of procurement.

Sole Source Procurement

When other than full and open competition is contemplated, other procurement methods such as sole source, single bidder proposal, national emergency, etc., subrecipients are instructed to follow the procurement requirements outlined in FTA Circular 4220.1F.

2.2 PROCUREMENT PACKET PREPARATION

2.2.1 Convene a Review Committee

Depending on the complexity and type of procurement process you will be undertaking, a review committee may be convened to provide guidance and direction in the development of the procurement packet. At a later stage in the procurement process, this committee may be utilized to evaluate bids or proposals. The composition of the committee would logically include some or all of the individuals and functional areas represented in your internal working committee. The committee should review bids or proposals, arrange for negotiations with the bidders/proposers, if necessary, and be responsible for the selection of the final contractor.

2.2.2 Develop Draft IFB or RFP (including all required clauses)

After you have made a decision regarding the content of the procurement and the method to be used, you must draft the IFB or RFP document. Model IFB's and RFP's can be found in the APTA Standard

Bus Procurement Guidelines. You may also contact WisDOT for sample IFBs or RFPs used by other subrecipients.

Your procurement package must include standard terms and conditions (such as termination and bidder/proposer performance requirements and insurance requirements for bidders/proposers including workers' compensation, general liability and auto insurance. These and other FTA required clauses for all contracts are presented in Appendix B. If you are purchasing vehicles, refer to Appendix C which contains those clauses applicable to vehicle purchases.

Forms that are **required** in your procurement package can be found in Appendix D. The forms serve two basic functions: 1) to communicate information between the procuring agency and the prospective bidders/proposers, and 2) to certifying compliance by the procuring agency and contractors with federal requirements. WisDOT/FTA required forms are shown below in **bold**. Please note that many of the required forms have a threshold dollar amount of \$100,000 or more and therefore would not be applicable to many Section 5311 procurements. Since the majority of Section 5307 and 5309 procurements exceed the \$100,000 threshold, those procurement packets must include all appropriate forms. *Suggested* forms are included in Appendix E. The required and suggested forms are:

1. **Overall Federal Regulation Compliance**
2. **Certification of Compliance with Bus Testing Requirements**
3. **Compliance with Specifications**
4. **Buy America Certification**
5. **Debarment and Suspension Certification**
6. **Lobbying Certification**
7. **DBE Certification (\$250,000 Threshold)**
8. **Pre-Award/ Post-Delivery Buy America Certification**
9. **Pre-Award/ Post-Delivery Purchaser's Requirements Certification**
10. **Pre-Award/ Post-Delivery FVMSS Compliance or Exemption Certification**
11. **Post-Delivery Purchaser's Requirements Certification for More Than Ten Buses or Modified Vans**
12. Procuring Agency and Contracting Officer
13. Request for Change or Approved Equal
14. Acknowledgment of Addenda
15. Offeror Service and Parts Support Data
16. Form for Proposal Deviation
17. Pricing Schedule
18. Offer and Award

In addition to the required forms, your procurement package should contain additional elements such as: procurement process, selection criteria, protest/appeal procedures, specifications, etc. ***These items are recommended additions to your solicitation document.*** Remember, upon award of your solicitation, this may become part of a binding contract. The recommended items could provide you with appropriate remedies that may be needed in the future.

Uniform Terms and Conditions as contained in Appendix B (or for vehicle purchases, Appendix C) must be included in your IFB or RFP. You may wish to contact your procurement and or legal departments for assistance with other contract clauses.

Additionally, it is recommended that you require the submission of *appropriate levels of insurance* from your contractor. Commonly recommended levels include: \$1,000,000.00 General Liability (per occurrence), and Commercial Automobile Liability in a combined single limit of not less than \$1,000,000 for all owned, leased, hired and non-owned vehicles. For determining your specific levels, please contact your risk manager or insurance representative.

2.2.3 Develop Technical Specifications and/or Scope of Work

The scope of work or specifications present a detailed description of the goods or services to be purchased. Under federal grant programs, the specifications or scope of work must address pertinent federal requirements such as the Americans with Disabilities Act (ADA), Federal Motor Vehicle Safety Regulations (FMVSS), Buy America, Bus Testing and other requirements.

Subrecipient specifications for goods or services shall be non-proprietary in nature. This means that the use of “brand names” shall be limited to the extent possible. Whenever a specific trade or product name is used within the specification, the following statement shall be added: “. . .or approved equal with essentially comparable standards of quality, design, and performance.” The specifications shall comply with the requirements of FTA Circular 4220.1F. (see Appendix A).

2.2.4 Identify Potential Bidders/Proposers

Following, or concurrent with, the development of your the procurement documents (IFB or RFP), you should develop a list of prospective proposers or vendors. WisDOT is a good source for information on potential bidders/proposers. National trade publications such as *Passenger Transport*, *Urban Transportation Monitor*, etc. can be used as additional sources of prospective contractors.

2.2.5 Develop Evaluation Process and Criteria

Invitation for Bid - IFB Method

The bid award in an IFB procurement 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. The bidder must also provide evidence of the capability to honor the terms of the contract and deliver the goods and services on time. In other words, the contract is awarded to the most responsive and responsible bidder at the lowest cost. Penalties and incentives can be included in the evaluation process.

Request for Proposals - RFP Method

Selection of a proposer under this method is based on the qualifications of the proposer, the proposer’s compliance with proposal requirements and instructions, and the proposed price. Potential contractors must provide evidence of financial strength, experience with similar projects and the capability to honor the terms of the procurement document. Penalties and incentives can be included in the evaluation process.

Examples of evaluation criteria and scoring procedures for the RFP procurement method are included in section four of this manual and in APTA’s Standard Bus Procurement Guidelines.

2.2.6 Develop Protest Procedures

Pre-Award Protest Procedures

Depending on the complexity of the procurement process you are undertaking, there may be issues that bidders/proposers may want to challenge during the pre-bid/pre-proposal conference or the “approved equals process”.

Post-Award Protest Procedures

As the procuring agency, you must make every effort to provide for open competition and award a contract in a fair and equitable manner following bid review, evaluation and award procedures. In the event that a bidder feels that a contract award has been made unfairly or improperly, the procuring agency must have in place a policy and process to handle protests. Your protest procedures *must* be included in your procurement package. The policy should include internal protest procedures and time frames and also address confidentiality and award withholding. The contractor has the right to protest the award and must follow the administrative procedures you establish as the procuring agency. If the bidder/proposer disagrees with your decision, he/she can appeal. The bidder/proposer must file a protest that is in compliance with FTA Circular 4220.1F and with local and state regulations. WisDOT will only review protests relating to the failure of a procuring agency to follow their own stated procurement procedures.

2.2.7 Finalize Draft of Bid Package

Your internal working committee should review your draft IFB or RFP. More than one committee meeting may be required for this task. The meeting(s) should address the following items:

- Review specifications and scope of procurement
- Review of IFB or RFP document for compliance with local, state and federal government requirements
- Review of IFB or RFP document to determine if it clearly identifies bidder/proposer responsibilities
- Evaluation criteria and the protest procedures
- Bidder/proposer list of potential bidders or proposers
- Advertising policies for solicitation or publication of notices

At a minimum each subrecipient procurement packet shall include the following information:

For Invitation for Bids (IFB) or Request for Proposals (RFP)

- Solicitation/Notice/Invitation for Bids
- Non-proprietary specifications for the good or service to be purchased or acquired
- Bid or Request for Proposals requirements and conditions
- Federally required certifications and regulatory language (see Appendix B, C, D, and E)
- Selection criteria
- Pre-Bid/Pre-Proposal Protest Procedures (Approved Equals - if applicable)
- Intent to Award Protest Procedures (after intent to award is published)
- Bid specification sheet (bidder/proposer checks off compliance with the specs)
- Bid/Proposal offer sheet (bidder/proposer writes in price and signs)

For Request for Quotations (also referred to as an RFQ)

- Quote sheet (bidder/proposer writes in price and signs)
- Non-proprietary specifications for the good or service sought

- Federally required certifications and regulatory language

2.2.8 WisDOT Review and Approval of Procurement Packet

When the draft procurement packet has been completed, it must be submitted to WisDOT for review and approval prior to advertisement and distribution. The **pre-bid checklist** must accompany the package (see Appendix F). WisDOT will review your procurement package for compliance with FTA requirements, proprietary language and specifications, local preferences, evaluation process and criteria, protest procedures, and general completeness. Following WisDOT review, you will be advised of necessary changes or approved to proceed with the solicitation.

When submitting the *procurement packet*, please use the following address:

**Wisconsin Department of Transportation
Bureau of Transit and Local Roads
Public Transit Section
PO Box 7913
Madison WI 53707-7913**

2.3 CONDUCTING THE PROCUREMENT

2.3.1 Finalize IFB/RFP Package

While reviewing the subrecipient procurement package, WisDOT staff may request changes or additions to make your procurement packet compliant with federal or state requirements. After your IFB/RFP has received WisDOT approval, finalize the document by incorporating any required changes. In the event that the procurement packet has been sent to prospective bidders/proposers, an addendum shall be sent to all bidders/proposers who received a copy of the procurement packet. WisDOT should also receive a copy of the finalized version of your procurement document copies of any addenda.

2.3.2 Advertising and Notifying Potential Bidders/Proposers

Following WisDOT approval of your procurement documents, you will notify potential bidders/proposers on your list of qualified contractors. The solicitation or notice must contain a "Solicitation" form which provides prospective bidders/proposers with important information regarding the procurement, including the scope of the procurement, the date of a pre-bid/pre-proposal conference (if applicable), deadlines for bidders/proposers communications (including requests for approved equals), and the bid or proposal due date.

You should send bidders/proposers a copy of the solicitation. Alternatively, you may send a complete procurement package which includes the solicitation to those bidders/proposers that you reasonably expect to respond. Local newspapers and national trade publications such as *Passenger Transport* or *Urban Transportation Monitor* may be used to advertise for prospective bidders/proposers. An

Affidavit of Publication will be needed for WisDOT approval of your bidder/proposer selection at the pre-award step (as referenced in Section 2.4.4).

*Note: Wisconsin state purchasing guidelines require that **two (2) notices** be published in the local official paper (county or regional circulation) for procurements exceeding \$25,000. The first notice must be published **at least 14 days** prior to the due date of bids/proposals. The second notice must be published **at least 7 days** prior to the due date. Your local requirements may vary, or you may want to allow more time for response to your solicitation, however, **the state minimums must be met or exceeded**. If a bidder/proposer is interested in your procurement, he/she would request a complete procurement packet.*

2.3.3 Conduct a Pre-Bid or Pre-Proposal Conference (Optional)

A pre-bid or pre-proposal conference allows bidders/proposers the chance to ask questions regarding your desired purchase. The date for the Pre-bid Conference must be stated in your "Solicitation Schedule" in the bid package. It is best to hold the conference soon after the invitations to bid have been sent so that unclear areas may be addressed early on. The Pre-bid Conference is more effective if prospective bidders/proposers submit written questions for your review in advance. Attendance by prospective bidders/proposers at the conference is usually optional but may be required depending on the particulars of your proposed procurement.

2.3.4 Procedures for "Approved Equals" (If Applicable)

Depending on the type and complexity of the subrecipient procurement, there may be a need to have a written procedure for handling "approved equals" requests from bidders/proposers, and for handling "approved equals" appeals from bidders/proposers. These procedures should be included in the subrecipient procurement document. The approved equals process should specify that each bidder/proposer must obtain written approval from the procurement agency for any proposed substitution/change/alteration/modification to the specification during the "approved equals" period specified in the procurement document. Other bidders/proposers shall receive concurrent notice of the "approved equals" so as to maintain a competitive environment during the procurement process.

2.3.5 Pre-Bid/Pre-Proposal Approved Equals Protests Procedures (If Applicable)

If an approved equals process is used, the subrecipient should develop protest procedures to handle bidder/proposer protests or appeals. These procedures should be included in the subrecipient procurement document so the bidder/proposer can refer to them should the need arise. The procedures should be substantive enough to enable the subrecipient to resolve the matter at the local level with minimal intervention by WisDOT or FTA.

2.3.6 Bid/Proposal Deadline and Acceptance by the Procuring Agency

Late bids or proposals shall not be accepted by the procurement agency. The subrecipient as the procuring agency must strictly adhere to its established deadline for receipt of bids or proposals. Acceptance of bids or proposals after the established deadline constitutes a violation of the subrecipients' own procurement process. Furthermore, this creates an unfair advantage over other

bidders/proposers who had submitted their bids/proposals on time. If the subrecipient finds it necessary to change the deadline for submittal of bids/proposals, it must inform all bidders/proposers who have received a copy of the procurement packet by issuing an addendum to the IFB or RFP. Reliance upon a carrier for delivery of bids/proposals is at the bidder/proposer's own risk. WisDOT does not encourage the acceptance of bids/proposals which have been submitted via facsimile. Subrecipients who accept this submittal are encouraged to require the bidder/proposer to submit the signed "hard copy" of their bid/proposal.

Bids will be publicly open and read aloud at the designated date and time. Further evaluation will determine a bidder's responsiveness to the requirements stated. The lowest cost responsive and responsible bidder is awarded the contract in an IFB process.

If the procuring agency is conducting an RFP process, the proposals received by the established deadline will be submitted to the review committee for evaluation. The contract will be awarded based upon quality and price.

2.4 PRE-AWARD REVIEW AND WISDOT CONCURRENCE PROCESS

Subrecipients are instructed to follow FTA Circular 4220.1F and the FTA Best Practices Procurement Manual and are required to have all stages of the procurement submitted to WisDOT for review and approval.

2.4.1 Re-Convene Review Committee

The review committee should be re-convened to evaluate the bids or proposals, the qualifications of the bidders/proposers, and to determine the competitiveness of the bids or proposals. In cases where a committee was not utilized earlier, the review committee should be convened to evaluate the bids or proposals. This committee would logically include some or all of the individuals and functional areas represented in your internal working committee. The committee should review bids or proposals, arrange for negotiations with the bidders/proposers, if necessary, and be responsible for the selection of the final contractor.

2.4.2 Review Evaluation Process and Criteria

The review committee should review the established evaluation process and criteria before evaluating the bidders/proposers submittals. This helps ensure that committee members are using an objective and systematic approach in evaluating the responsiveness of the bids or proposals.

2.4.3 Evaluate Bids/Proposals for Required Elements/Responsiveness

Bids or proposals must be reviewed to determine whether they contain all required elements. The bidder/proposer must submit the original bid or proposal and required number of copies by the due date as stated on the "Solicitation Data" form.

IFB Method

The bid should be in a sealed envelope and must arrive by the due date. It should be submitted in original form plus the specified number of copies. The bids are opened publicly at the set time specified in the proposal. The contractor must include a "Solicitation, Offer and Award" form, and submit a completed pricing schedule with price/cost information.

Award of the contract is made to the bidder/proposer with the lowest total cost bid, including delivery charges, that is responsive to all procurement requirements. As stated in APTA's Standard Bus Procurement Guidelines the bid must include as appropriate:

1. Offeror's financial statements prepared in accordance with United States Generally Accepted Accounting Principles (GAAP) and audited by an independent certified public accountant authorized to practice in the jurisdiction of either the procuring agency or the offeror.
2. Engineering, management and service organizations with sufficient personnel and requisite disciplines, licenses, skills, experience, and equipment to complete the contract as required and satisfy any engineering or service problems that may arise during the warranty period.
3. Adequate manufacturing facilities sufficient to produce and factory-test equipment on schedule.
4. A spare parts procurement and distribution system sufficient to support equipment maintenance without delays and a service organization with skills, experience, and equipment sufficient to perform all warranty and on-site work.
5. Evidence that offeror (bidder/proposer) is qualified in accordance with Quality Assurance Provisions.
6. Evidence of satisfactory performance and integrity on contracts in making deliveries on time, meeting specifications and warranty provisions, parts availability, and steps offeror took to resolve any judgments, liens, fleet defects history, and warranty claims. Evidence shall be based on client reference.

RFP Method

The review and evaluation process for the RFP procurement method includes a broader range of items since **price is not the only criteria for selection**. The procuring agency reviews the RFP to ensure that the contractor has submitted both a technical proposal and a price proposal (in separate envelopes). Evaluation criteria should be developed in each of the following categories:

1. **Experience Necessary to Perform Scope of Work** - The extent to which the firm has personnel with the necessary experience and training to perform the work.
2. **Professional Competence in Performing Similar Work** - The extent to which the firm has demonstrated competence in performing similar work and/or the extent of former client satisfaction.
3. **Capacity to Perform the Scope of Work** - The extent to which the firm has personnel, equipment and facilities to perform the scope of work.
4. **Proposal's Demonstration of Scope and Understanding of the Project** - The extent to which the firm's proposal demonstrates a thorough understanding of the scope of the undertaking and its contribution to the transit system.
5. **Price** - The competitiveness of price.

Proposals are typically not opened in public, and are often kept confidential until the award has been made. The proposals should be evaluated by the Review Committee only. ***The price proposal should***

be kept in a sealed envelope for evaluation after the technical qualifications have been evaluated. The Review Committee must document their evaluation scores.

The following are the requirements for qualifying responsible bidder/proposers. All of these requirements must be met therefore, they are not listed by any particular order of importance. The offeror of any proposal that the Review Committee finds not to meet these requirements, and cannot be made to meet these requirements, may be deemed unresponsive and its proposal rejected. The requirements are as follows adapted from APTA's Standard Bus Procurement Guidelines:

1. Sufficient financial strength, resources, and capability to finance the work to be performed and complete the contract in a satisfactory manner as measured by:
 - Offeror's financial statements prepared in accordance with United States Generally Accepted Accounting Principles (GAAP) and audited by an independent certified public accountant authorized to practice in the jurisdiction of either the procuring agency or the offeror.
 - Ability to secure required bond(s) as evidenced by a letter of commitment from an underwriter confirming that the offeror can be bonded for the required amount.
 - Willingness of any parent company to provide the required financial guarantee evidenced by a letter of commitment signed by an officer of the parent company having the authority to execute the parent company guarantee.
 - Ability to obtain required insurance with coverage values that meet minimum requirements evidenced by a letter from an underwriter confirming that the offeror can be insured for the required amount.
2. Evidence that the human and physical resources are sufficient to perform the contract as specified and assure delivery of all equipment and other deliverables within the time specified in the contract, to include:
 - Engineering, management and service organizations with sufficient personnel and requisite disciplines, licenses, skills, experience, and equipment to complete the contract as required and satisfy any problems that may arise during the contract period.
3. Evidence that offeror is qualified in accordance with Quality Assurance Provisions.
4. Evidence of satisfactory performance and integrity on similar contracts in completing project deliverables on time, meeting scope of work, and steps offeror took to resolve any problems that may have arisen during the contract period. Evidence shall be by client references.

2.4.4 WisDOT Notified of Intent to Award

WisDOT conducts a pre-award review of bids or proposals prior to award. Once the subrecipient has selected a potential contractor, WisDOT will review the selection process and approve the bidder/proposer.

The subrecipient shall complete the **Subrecipient Pre-Award Review Checklist** contained in Appendix F. If the subrecipient is conducting a vehicle(s) procurement of \$100,000 or more, a copy of

the completed **pre-award audit forms** and required subrecipient certifications must be sent to WisDOT (see Appendix D).

When submitting pre-award documents to WisDOT, please use the address listed in Section 2.2.8.

WisDOT will review your pre-award documents for compliance with state and federal requirements and the processes contained in this manual. The subrecipient will be advised of WisDOT's concurrence with the bidder/proposer selection and approval to proceed with a contract award by issuance of a ***Letter of Concurrence***. If WisDOT does not concur with the subrecipient bidder/proposer selection, the subrecipient will be advised of necessary steps or alternatives to be followed. If WisDOT does not concur with the selection, a letter will be sent to the subrecipient explaining options to follow.

Copies of the following documents should accompany the letter and checklist sent to WisDOT requesting concurrence with the selected bidder/proposer (see Appendix D for required forms and Appendix F for checklist):

- Bid/Request for Proposals/Quotations
- Tabulation of Bid/Request for Proposals/Quotations (if applicable)
- Affidavit of Publication (please refer to Section 2.3.2. - Advertising and Notifying Potential Bidders/Proposers)
- List of Bidder/Proposers who received a copy of the solicitation
- List of Bidders/Proposers who received a copy of the procurement packet
- All required signed certifications from bidders/proposers submitting a Bid/RFP or Quotation (see checklist for listing of the required forms).
- Applicable documentation such as: Altoona test results, bid bond, performance bond, etc.
- Review Committee Evaluation Forms

Additional bidder/proposer information may be required by WisDOT in order to complete the review and concurrence of the subrecipient procurement. ***In the case of construction contracts or contracts involving change orders of more than five percent (5%) of the total approved contract amount, the subrecipient shall seek WisDOT concurrence prior to incurring the additional expense.***

2.4.5 Notify Selected and Rejected Bidders/Proposers

Following receipt of WisDOT's ***Letter of Concurrence*** with your bidder/proposer selection, a representative from your agency must sign the "Solicitation, Offer and Award" form and deliver it to the successful bidder. Depending on the procurement document and your local purchasing procedures, this may be the only document that needs to be signed by the subrecipient. In this case, the procurement document becomes a binding contract between the subrecipient and the Contractor.

The subrecipient is required to notify unsuccessful bidders, in writing, of the award decision.

2.4.6 Handle Intent to Award Protests Using the Local Process

A bidder has the right to protest your decision if he/she feels the award was made improperly or unfairly. The procuring agency must follow its internal protest policies and procedures referred to in Section 2.2.6 and inform the protesting bidder/proposer of the agency's decision in a timely manner. The bidder/proposer may appeal your decision and file a protest in compliance with FTA Circular

4220.1F and local and state regulations. WisDOT will only review protests relating to the failure of a procuring agency to follow its own stated procurement procedures.

2.5 POST-AWARD AND POST-DELIVERY ACTIVITIES

2.5.1 Issue Purchase Order or Service Contract to Selected Bidder/Proposer

After the subrecipient receives WisDOT's *Letter of Concurrence*, a purchase order shall be issued or a service contract drafted to ensure the contractor complies with the Bid or Proposal requirements. The subrecipient is responsible for the financial commitment incurred by issuing a purchase order or contract. The subrecipient receives the federal share of the cost of goods or services following delivery or project completion.

2.5.2 Monitor Contractor Activities (If Applicable)

If the contract is for services, vehicles or facility construction, the subrecipient is responsible for monitoring contractor compliance with the contract, purchase order, and/or technical specifications or technical proposal. The subrecipient is also responsible for ensuring that contractors and subcontractors comply with federal and state regulations.

2.5.3 Post-Delivery Inspection of Capital Equipment Purchases

When vehicles or other equipment have been delivered, several activities must take place. Warranty arrangements must be made with the contractor and post-delivery audit forms must be completed and sent to WisDOT (See Appendix D).

Additionally, after subrecipients of Section 5311 funds have placed vehicles or other equipment in service, they must comply with applicable reporting requirements including:

- performance reports;
- vehicle inspections;
- biennial vehicle and equipment inspection/self certifications processes.

Section 5307 & Section 5309 subrecipients are responsible for maintaining facilities, records on vehicles, and equipment. These records shall contain a history of the facility, vehicle or equipment starting with construction or delivery and extending through disposal.

2.5.4 Complete Post-Delivery Audit Forms

After delivery of vehicles or equipment, it is the subrecipient's responsibility to conduct an inspection and ensure compliance with the specifications and with federal and state regulations. The post-delivery audit forms must accompany any subrecipient request to WisDOT for federal reimbursement (See Appendix D).

2.5.5 Acceptance, Warranty and Service Arrangements Made with Contractor

It is recommended that any problems discovered during the post-delivery inspection of vehicles or equipment be resolved with the contractor *before* issuing payment. Typically payment constitutes final acceptance of a vehicle, and it may be difficult to obtain service or repairs at no cost after issuing payment. The subrecipient is responsible for all warranty and service arrangements with the contractor.

2.5.6 Showing WisDOT as Lien-Holder

Section 5311 subrecipients must submit a copy of their DMV Application for Title/Registration, showing WisDOT as a lien holder of the vehicle's title (**Secured Party Number 039337**). This must be sent to WisDOT with their request for reimbursement of the federal share of vehicle cost.

Note: Vehicle titling and registration costs are not an eligible cost under the capital grant program. These costs must be covered with subrecipient funds.

The DMV Title/Registration requirements applicable to Section 5311 and Section 5310 subrecipients are not applicable to Section 5307 or Section 5309 subrecipients. The subrecipients of Section 5307 and 5309 funds follow their own procedures to register vehicles.

2.5.7 Payment/Reimbursement of the Federal Portion of the Purchase Cost

Only acquisition of goods and services approved by WisDOT *before* a contract or purchase order is issued are eligible for reimbursement. Subrecipients requesting reimbursement of the federal dollars under their grant contract must submit a letter indicating:

- Grant Number and Project I. D.
- Project Description
- Indicate whether it is a partial payment or final payment request
- Total amount and federal reimbursement sought

All reimbursement requests must be accompanied by:

- Copy of the Contractor invoice(s)
- Copy of the purchase order - or sales contract (if a vehicle)
- Copy of change order(s) (if a facility construction project)
- Copy of payment check(s)
- Subrecipient checklist (see Appendix F)
- Subrecipient signed certifications (see Appendix D)
- WisDOT post-delivery audit forms
- Copy of DMV application for Title Registration
- other supporting documentation as applicable

WisDOT may request additional information in order to process the subrecipient reimbursement request.

In the case of rolling stock purchases, WisDOT should not be invoiced until all vehicles have been delivered and accepted by the transit agency. Final acceptance means that all issues affecting vehicle performance have been resolved. Any additional contractor expenses (e.g., labor, materials, etc.) after final acceptance **will not be paid by** WisDOT. These expenses should be covered under the vehicle warranty/guarantee.

3. DETAILED FEDERAL REQUIREMENTS

The receipt of federal funds requires compliance with FTA regulations by the recipient of funds and by subrecipients and contractors. Through your contract with WisDOT you will be made aware of specific procurement requirements for your particular grant. Different rules apply depending upon whether you, as the subrecipient, are a local government or Indian Tribal entity or whether you are a non-profit organization. Different requirements also apply to vehicle purchases. The following subsections are intended to provide some level of detail about specific regulations.

3.1 BUY AMERICA STANDARD REQUIREMENTS

For purchases exceeding \$100,000, grantees and subgrantees must use steel, iron and manufactured products made in the United States to be eligible for federal funding. If the product is not made in the United States, the subrecipient shall ensure the product is subject to a “general waiver” or obtain a waiver from FTA before payment can be made. The subrecipient must provide WisDOT with certifications ensuring compliance with Buy America requirements (see Appendix D for samples of the certification forms).

For purchases of rolling stock, the Buy America requirements entail a pre-award and post-delivery review process. Subrecipients must maintain documentation on file showing compliance with these requirements as follows:

1. A pre-award certification must be obtained by the subrecipient from the manufacturer before contracting for the purchase of rolling stock (see Appendix D for a sample of the certification form). Subrecipients must obtain a pre-award break-down of *proposed* components and sub-components from vendors and the locations of the final assembly, and will review the information for compliance with Buy America and purchase specifications.
2. A post-delivery audit must be made before title to rolling stock is transferred to a subrecipient (see Appendix D for samples of the certification forms). Subrecipients must obtain a post-delivery break-down of *actual* components and sub-components from vendors and the locations of the final assembly, and will review the information for compliance with Buy America and purchase specifications.
3. Federal Motor Vehicle Safety Standards (FMVSS) also apply for vehicles subject to this requirement. The subrecipient shall obtain a copy of the manufacturer’s self-certification that the vehicles comply with the standard. For vehicles not subject to this requirement, the subrecipient shall obtain a statement from the manufacturer attesting to that fact. The statement shall be kept in the procurement file.
4. For rolling stock purchases of more than ten units, the subrecipient shall certify that an “in-plant inspector” was present to monitor the final assembly process. The inspector shall provide the subrecipient with a final report of construction activities.
5. For all rolling stock purchases, the subrecipient shall verify that the manufacturer’s proposed vehicle specifications meet the bid specifications and further verify that the vehicle has been visually inspected and road tested to demonstrate that the vehicle meets contract specifications (post-delivery).

When domestically produced goods are unavailable or when there is a price differential of at least 25 percent between domestic and foreign made products, an FTA waiver must be obtained by the subrecipient before awarding the purchase to the bidder of the foreign made product.

3.2 PROCUREMENT INTEGRITY STANDARD REQUIREMENTS

Recipients of Federal Transit Administration (FTA) funds are prohibited from contracting for goods or services from organizations or contractors who have been *debarred* or *suspended* from receiving federally-assisted contracts, and must certify that they will not enter into a contract of \$100,000 or more with any such contractor. Contractors also must certify to the procuring agency that they, or any of their sub-contractors are not suspended or debarred from participation in a federally-assisted contract. Subrecipients are required to certify through their “principals” (an officer, director, owner, partner, key employee, or other individual who has primary management or supervisory responsibilities, and an individual who has critical influence or substantial control over a covered transaction, whether or not employed by the subrecipient) that they are not excluded from federally assisted transactions.

This procurement integrity standard requirement applies to contracts exceeding \$100,000. In addition, the subrecipient must certify that none of its third party contractors and subcontractors is debarred, suspended, ineligible, or voluntarily excluded from participation on federally assisted transactions. Subrecipients must ensure the following:

1. Subrecipient procedures are in place to obtain required certifications from principals, contractors and subcontractors (see Appendix D for a sample of the certification form).
2. Proper certifications are included in subrecipient procurement documents and contracts, and that completed copies are included in the procurement or grant files (see Appendix D for a sample of the required certification form).
3. Certifications regarding debarment and suspension are required of principals of subrecipient and major third party contractor (for contracts exceeding \$100,000 with multiple subcontractors).

Subrecipients are obligated to inform FTA if at any time the subrecipient or another covered entity learns that a certification was erroneous when submitted or if circumstances have changed (new personnel, indictments, convictions, etc.)

3.3 RESTRICTIONS ON LOBBYING STANDARD REQUIREMENTS

The Lobbying requirements apply to construction, architectural and engineering, acquisition of rolling stock, professional service contracts, operational service contracts and/or turnkey contracts over \$100,000.

Subrecipients of FTA grants exceeding \$100,000 must certify compliance with the Byrd Anti-Lobbying Amendment or "New Restrictions on Lobbying" before they can receive funds (see Appendix D for a sample of the certification form). "New Restrictions on Lobbying" requires that the procuring agency, the contractor and any subcontractors certify that they will not and have not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant or any

other award covered by 31 U.S.C. 1352. The procuring agency, the contractor and any subcontractors shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on their behalf with non-federal funds with respect to that federal contract, grant or award. In other words, this is a certification by the contractor to the procuring agency that neither the contractor nor any of its subcontractors have in the past nor will in the future use federal funds to influence any employee of a federal agency or any member or employee of Congress in obtaining a federal award, grant or contract.

Subrecipients shall annually certify, through the Certifications and Assurances, that no federal funds have been used to pay lobbyists to exert influence regarding the award of federal contracts, and that such requirements *have been imposed over contractors and subcontractors*. Contractors must sign the Lobbying Certification if their contract exceeds \$100,000. Notice of the lobbying certification requirement shall be provided in the subrecipient procurement documents.

Each calendar year, subrecipients supporting lobbying activities with non-federal funds (this is considered an ineligible expense) must disclose such activities in the Standard Form-LLL. Each time that events that affect the accuracy of information contained in previous forms occur, the subrecipient must submit an updated report (Standard Form-LLL) at the end of each calendar quarter. If a subrecipient has no process to ensure receipt of certification and disclosure statements, it must develop and/or document one.

3.4 BUS TESTING REQUIREMENTS

Subrecipients purchasing buses with FTA funds must certify that two conditions will have been met before authorizing final acceptance of the first bus of any new bus model or any bus model with a major change in configuration or components:

1. The model of the bus will be tested at a bus testing facility approved by FTA.
2. The subrecipient will receive a copy of the test report prepared on the bus model at a point in the procurement process specified by the subrecipient which will be prior to the subrecipient's final acceptance of the first vehicle. If the manufacturer represents that the vehicle was previously tested, the vehicle being sold should have the identical configuration and major components as the vehicle in the test report. If the configuration or components are not identical, the manufacturer shall provide a description of the change and the manufacturer's basis for concluding that it is not a major change requiring additional testing. If the manufacturer represents that the vehicle is "grandfathered" (has been used in mass transit service in the United States before October 1, 1988, and is currently being produced without a major change in configuration or components), the manufacturer shall provide the name and address of the recipient of such a vehicle and the details of that vehicle's configuration and major components.

The bus testing requirement applied initially to three categories of vehicles:

1. Heavy-duty large buses (with a useful life of 12 years or 500,000 miles)
2. Heavy-duty medium buses (with a useful life of 10 years or 350,000 miles)
3. Medium-duty buses (with a useful life of 7 years or 200,000 miles)

FTA extended the bus testing requirements to the following categories of small vehicles in 1994:

1. Vehicles built from unmodified mass-produced chassis

2. Vehicles manufactured from modified mass produced chassis or vans
3. Vehicles manufactured from non-mass produced chassis or vans

3.5 AMERICANS WITH DISABILITIES ACT REQUIREMENTS

Subrecipients must acquire accessible vehicles under ADA requirements. Under certain circumstances non-accessible vehicles can be acquired. For public entities operating fixed-route service, all new vehicles acquired after August 25, 1990 must be accessible unless a waiver has been obtained from the FTA Administrator. The subrecipient must hold at least one public hearing prior to requesting a waiver. FTA may grant a waiver if the subrecipient demonstrates that the initial solicitation specified that the buses were to be lift equipped, lifts for the buses could not be provided by any qualified lift manufacturer, and any further delay in purchasing the buses would significantly impair the transportation services in the community.

Subrecipients opting to remanufacture vehicles to extend their useful life for five or more years or to purchase vehicles which have been remanufactured must ensure that the vehicles are accessible to the maximum extent feasible. It is considered feasible to remanufacture a vehicle so that it is accessible, unless an engineering analysis demonstrates that including accessibility features would have a significant adverse effect on the structural integrity of the vehicle.

Demand responsive systems for the general public must acquire accessible vehicles unless equivalent service is provided. When viewed in its entirety, the demand responsive system must provide a level of service to persons with disabilities that is equivalent to the level of service it provides to persons without disabilities to be exempt from the vehicle accessibility requirement. The ADA regulations provide specific guidance for evaluating equivalent service. A demand responsive system may be considered to provide equivalent service if it is provided in an integrated setting and it is equivalent with respect to:

1. response time
2. fares
3. geographic area of service
4. hours and days of service
5. restrictions or priorities based on trip purpose
6. availability of information and reservations capability
7. constraints on capacity or service availability

Prior to acquiring inaccessible vehicles, the subrecipient must certify to WisDOT that it provides an equivalent level of service. This certification is valid for no more than one year.

Subrecipients constructing new facilities or altering existing facilities must make the facility or alterations readily accessible to and useable by individuals with disabilities. An exception may be made if the cost of making the facility accessible is disproportionate to the cost of the project. The ADA regulations provide guidance to define disproportionate costs, specify what costs may be counted, and provide a priority listing of accessible features.

3.6 DRUG AND ALCOHOL TESTING REQUIREMENTS

Subrecipients are required to have an anti-drug policy and training program. Recipients of Sections 5307, 5309, or 5311 funds must have drug and alcohol programs in place to cover all “safety sensitive” employees (except maintenance contractors for Section 5311 subrecipients).

The subrecipient’s drug and alcohol testing program must cover: marijuana, cocaine, opiates, amphetamines, phencyclidine, and alcohol. Testing is required in the following situations:

- Pre-employment Testing (drug testing only)
- Reasonable Suspicion Testing
- Random Testing
- Post-Accident Testing
- Return to Duty/Follow-up Testing
- Blind Performance Testing (drug testing only)

All safety-sensitive employees are subject to the testing program including:

- Operators of revenue vehicles
- CDL holders operating non-revenue vehicles
- Mechanics maintaining revenue vehicles or equipment used in revenue service (except contract maintenance workers for Section 5311 subrecipients)
- Employees controlling the movement of revenue vehicles (such as drivers & dispatchers)
- Firearm-bearing police and security personnel
- First-line supervisors whose responsibilities include safety sensitive functions

Other requirements applicable to subrecipients are:

- A written drug and alcohol policy
- A training program on drug and alcohol abuse
- Records to document compliance
- Records and reporting on drug and alcohol testing results
- Drug and Alcohol Testing Certification to FTA

3.7 FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Subrecipients are responsible for obtaining, from the vehicle manufacturer, a self-certification that the vehicle(s) to be purchased meet the Federal Motor Vehicle Safety Standards (FMVSS). If the vehicle(s) are not subject to the FMVSS, the subrecipient must obtain a certified statement from the manufacturer that the vehicle(s) is not subject to such standards. At the pre-award stage, the subrecipient must obtain a copy of the manufacturer’s self-certification sticker information and, at the post-delivery stage, verify that the FMVSS sticker is affixed to each vehicle.

The subrecipient must supply WisDOT with copies of these certifications. It is also the responsibility of the subrecipient to maintain a file containing all the certifications signed by the manufacturer and supporting documentation. If these documents are missing, the subrecipient must take necessary action to obtain the appropriate certification(s).

3.8 DISADVANTAGED BUSINESS ENTERPRISE (DBE) REQUIREMENTS

Disadvantage Business Enterprise (DBE) provisions apply to all U.S. DOT (including FTA) assisted contracts. These requirements flow to FTA recipients who receive at least \$250,000 in FTA capital and operating funds, exclusive of funds for transit vehicle purchases, or \$100,000 in FTA planning funds. The requirements are passed on to the subrecipients.

It is the policy of the U.S. Department of Transportation, WisDOT and subrecipients that DBE's shall have the opportunity to participate in contracts financed in whole or in part with federal funds.

The contractor agrees to ensure that DBE's have equal opportunity to participate in whole or in part of the contract. In this regard, the contractor shall take necessary and reasonable steps in accordance with the regulations to ensure that DBE's have equal opportunity to compete for and perform subcontracts. The contractor shall not discriminate on the basis of race, color, national origin, religion, sex, age, or physical handicap in the award and performance of subcontracts. The subrecipient policy should be to promote the development and increase the participation of businesses owned and controlled by disadvantaged persons. DBE involvement in all phases of the subrecipient procurement activities are encouraged.

The subrecipient federal fiscal year DBE goal is set by the subrecipient in an attempt to match projected procurements with available qualified disadvantaged businesses. Goals for budgeted service contracts, bus parts, and other materials and supplies for DBE's have been established by WisDOT, unless the goal has been modified to consider local circumstances and conditions. These goals are considered pertinent to any subrecipient procurement process. If a specific DBE goal is assigned to a contract, it will be clearly stated in the Special Specifications, and if the contractor is found to have failed to exert reasonable good faith efforts to involve DBE's in the work provided, the subrecipient may declare the contractor non-compliant and in breach of contract. If a goal is not stated in the Special Specifications, it will be understood that no specific goal has been assigned to the contract.

The contractor will keep records and documents to indicate compliance. These records and documents will be made available at reasonable times and places for inspection by any authorized representative of the subrecipient and will be submitted to the subrecipient upon request. The subrecipient will provide affirmative assistance as may be reasonable and necessary to assist the contractor in implementing the programs for DBE participation. The assistance may include the following:

1. Identification of Qualified DBE's
2. Available listings of Minority Assistance Agencies
3. Holding bid conferences to emphasize requirements

Please be aware that DBE rules and goals are changing at the current time. A revised section of this manual will be provided to accommodate final DBE rule implementation.

4. PROCUREMENT PROCEDURES

The procedures included in this section are intended to clarify and provide further guidance on selected types of procurements. They do not replace procurement processes discussed in other sections of this manual. Rather they provide additional information which we hope will be useful for subrecipients.

The procedures included in this section are applicable to subrecipients of WisDOT federal grants. Overall, these procedures address specific procurement efforts as identified below.

- Capital equipment purchases under \$25,000 (office, shop, communications equipment etc.)
- Capital equipment and rolling stock purchases over \$25,000 (sedans, vans and buses - lift and non-lift equipped)
- Procedures for procurement of transportation services (taxi, paratransit and bus service contracts).
- Procedures for procurement of consulting services.
- Procedures for the purchase of used capital equipment.
- Procedures for refurbishing vehicles under \$25,000

Where the procedures require submittal of information or documents for review by WisDOT's Bureau of Transit and Local Roads, please send the information to the following address:

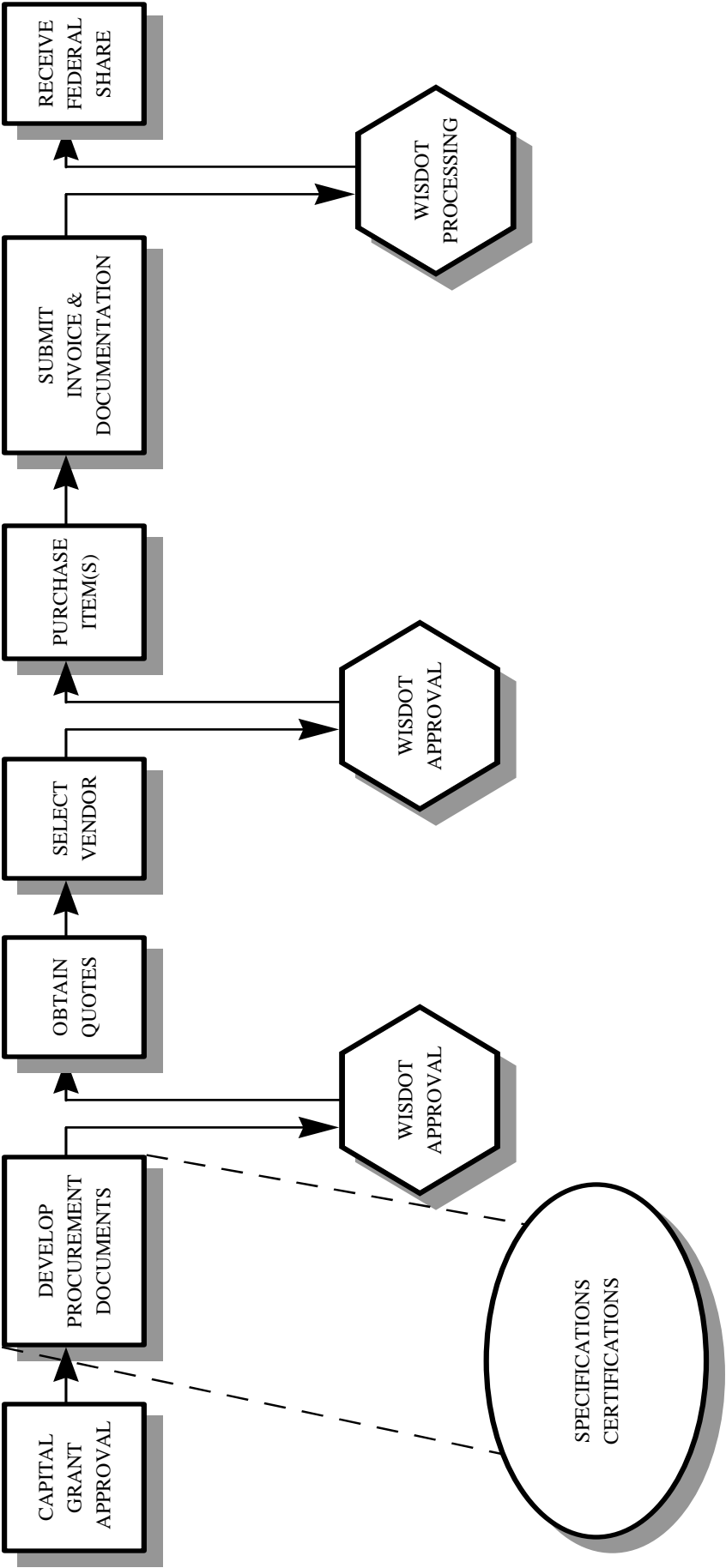
**Wisconsin Department of Transportation
Bureau of Transit and Local Roads
Public Transit Section
PO Box 7913
Madison, WI 53707-7913**

Remember that technical assistance is available from the Public Transit Section. Please refer to the list of contacts included in Appendix I.

4.1 PROCEDURE FOR PURCHASE OF CAPITAL EQUIPMENT UNDER \$25,000

1. Prepare specifications / Request for Quotations (RFQ) document. Submit to WisDOT for review.
2. Following WisDOT approval, obtain a minimum of three written quotes from bidders/proposers. You can do this by sending your Solicitation or Notice directly to bidders/proposers via mail or FAX. You may to advertise in the local paper, however, no legal notice requirement applies to this procurement procedure.
3. Bidders/proposers and/or manufacturers submit all applicable certifications and forms required by WisDOT for all purchases under \$25,000. (See Section **1.5.2 CERTIFICATIONS AND FORMS TO BE INCLUDED IN THE PROCUREMENT PACKET**).
4. Select lowest quote *that meets specifications and complies with all regulatory requirements*. Submit copies of quotes to WisDOT for review and approval.
5. WisDOT will review your selection procedure and issue a letter of concurrence. At this point, you may award a contract or approve a purchase order to the bidder/proposer. If WisDOT does not approve of your procurement, you will be advised of what additional information or steps are needed.
6. Upon receipt and inspection of equipment purchased, send an invoice to WisDOT for payment.

**CAPITAL PROCUREMENT PROCESS
PURCHASES UNDER \$10,000**



4.2 PROCEDURE FOR THE PURCHASE OF CAPITAL EQUIPMENT OR ROLLING STOCK OF \$10,000 OR MORE

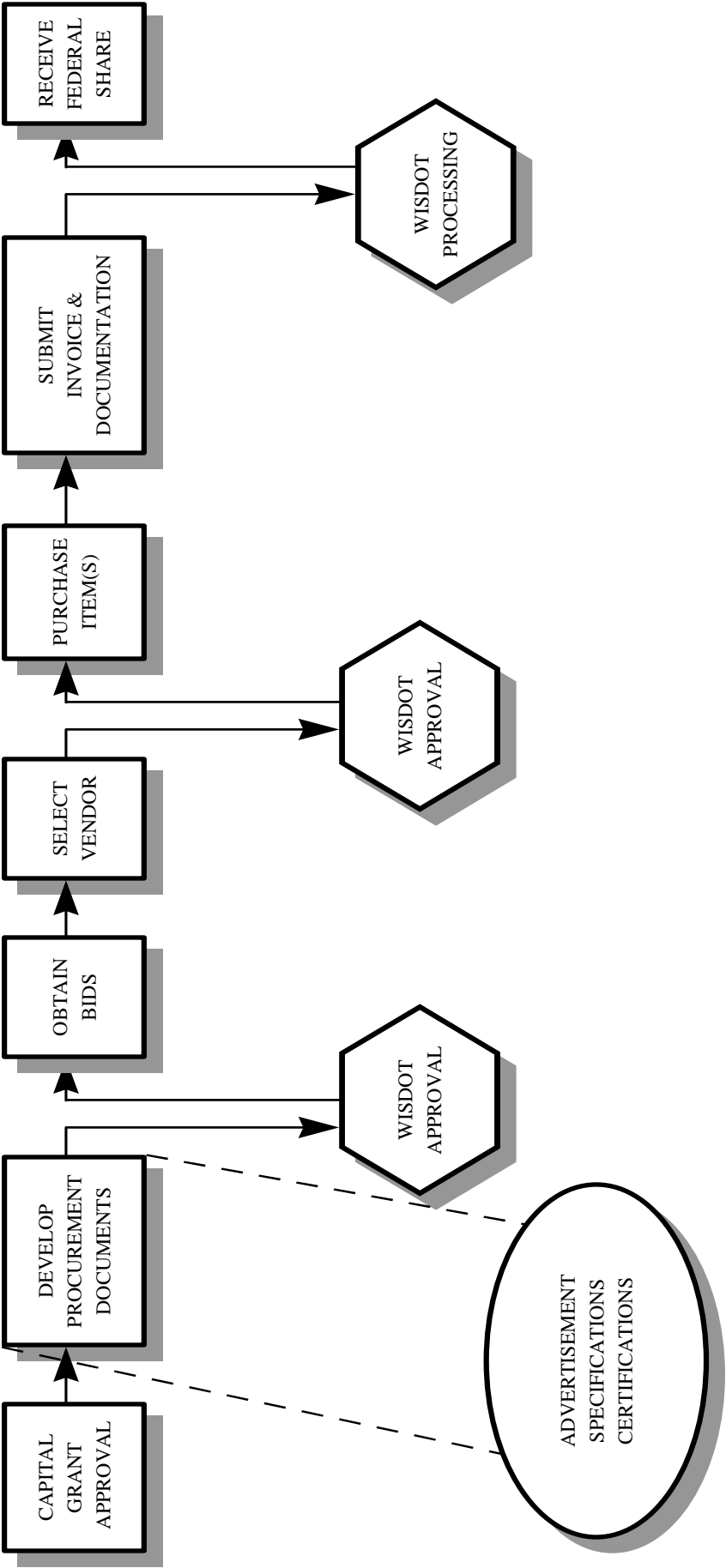
1. Select and submit to WisDOT the name, address and telephone number of the *project manager* who will be responsible for all phases of the procurement process including specifications, approved equals, etc.
2. Prepare specifications, advertisement for bids (solicitation), and procurement packet, and forward to WisDOT for review. The protest procedures that will be used at the local level must be spelled out in the procurement packet.

It is recommended that a pre-bid conference be held for large procurements (multiple vehicles, construction projects, or projects which due to their complexity lend themselves to the need for additional clarification from the procurement agency). The conference should be scheduled at the time solicitations are announced. Attendance at the pre-bid conference should be optional for bidders/proposers, however, attendance could be a requirement, depending on the complexity of the project. For projects that involve installation of equipment, it is recommended that an opportunity for an "**on-site visit**" be offered to bidders prior to the bid due date. A project timeline could be included in the procurement packet as a reference for interested parties.

3. For projects involving ITS or AVL technology, subrecipients shall comply with WisDOT ITS/AVL policy (see Appendix G).
4. Upon WisDOT approval of specifications, advertise for bids.
 - a. The notice or solicitation must be published at least 14 days prior to the bid or proposal due date.
 - b. A second notice, 7 days prior to the bid or proposal due date, must also be published.
5. The following time limits must be spelled out in bid documents:
 - a. A request for approved equals, clarification of specifications, and protests of specifications must be received by the procuring agency in writing, at least 14 days before the date of scheduled bid opening.
 - b. The procuring agency response to the above must be postmarked at least 7 days before the date of the bid opening or it will be considered void.
6. Open the bids/proposals. If there are any bidder/proposer protests, postpone/reschedule the opening of bids/proposals until protests are resolved.
7. For a listing of applicable certifications and forms that must be signed by the bidder/proposer and the subrecipient, please refer to the checklist in Section 1.5.2 and Appendix D and E.
8. If only one bid is received, the procuring agency shall complete a **single bid price analysis** and submit to WisDOT for approval (refer to FTA Circular 4220.1F for guidance - Appendix A).

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9. Select the lowest qualified bid/proposal and submit copies of the following documents to WisDOT for review and concurrence. **Do not award the contract until receipt of approval by WisDOT.**
 - a. Copies of bids or tabulation of bids, appropriate signed certifications, and any bid documentation necessary for WisDOT review and concurrence.
 - b. A list of manufacturers, or bidders/proposers, who requested or received a copy of the solicitation or Invitation for Bids, or the procurement packet.
 - c. An affidavit of Publication with advertisement for bids attached.
 10. If the subrecipient wants to select other than the lowest bidder, submit justification to WisDOT for approval.
 11. Award contract to WisDOT-approved bidder.
 12. Upon receipt of equipment or rolling stock, inspect purchase for compliance with specifications. If it meets specifications send invoice to WisDOT for payment.
 13. **For Section 5311 subrecipients**, the title to rolling stock vehicles shall be in the name of the public body. The title holder must ensure that the WisDOT is listed as a secured party (# 039337) when application for title/registration is filed with the Division of Motor Vehicles. We ask that you inform the contractor of this requirement before the vehicle is titled. This requirement should be included in your procurement packet. **Processing of reimbursement requests will be delayed if WisDOT, Bureau of Transit and Local Roads, is not listed as the lienholder in the vehicle(s) title(s).**

**CAPITAL PROCUREMENT PROCESS
PURCHASES OVER \$10,000**



4.3 PROCEDURE FOR THE PROCUREMENT OF TRANSPORTATION SERVICES OR CONSULTANT SERVICES

1. Select and submit to WisDOT the name, address and telephone number of the **project manager** who will be responsible for all phases of the procurement process.
2. Prepare the Request for Proposals (RFP) including specifications and detailed information about the service being sought. Also prepare the advertisement materials. These documents shall be forwarded to WisDOT for review and concurrence. The RFP documents should include the evaluation criteria on which the bidder/proposer/ qualifications will be rated. The protest procedures that will be used at the local level must also be spelled out in the procurement packet. ***Note*** that a separate Request For Qualifications (RFQ) may be the initial step in procuring selected transportation services. In such instances the subrecipient must also prepare and submit the RFQ document to WisDOT for review and approval.
3. Due to the complex nature of some procurements (e.g. Architectural/Engineering (A/E) services, special transportation services, etc.) it is recommended that the procurement agency hold a bidder/proposer conference. In addition, we recommend that the conference be scheduled at the time solicitations are announced. Attendance at the bidder/proposer conference should be optional for bidder/proposers, however, attendance may be a requirement depending on the complexity of the project. A project timeline should be included as a reference for bidders/proposers.
4. Following WisDOT approval of the RFQ/RFP (2 separate processes) document, it can be released and its availability published.
 - a. A notice or solicitation must be published at least 14 days prior to the proposal due date.
 - b. A second notice must be published at least 7 days prior to the proposal due date.
5. The following time limits must be spelled out in the RFQ/RFP documents.
 - a. Any request for approved equals, clarification of specifications, and protests of specifications must be received by the procuring agency in writing at least 14 days before the date of scheduled bid opening.
 - b. The procuring agency's reply to the above must be postmarked at least 7 days before bid opening or it will be considered void.
6. Open the proposals. If there are any bidder/proposer protests, postpone/reschedule the opening of bids/proposals until protests are resolved.
7. For a listing of applicable certifications and forms that must be signed by the bidder/proposer and the subrecipient, please refer to the checklist in Section 1.5.2 and to Appendix D and E
8. If only one response has been received by the RPQ/RFP submittal deadline , the procurement agency needs to determine the following:
 - a. Is the bidder/proposer qualified?

- b. If the bidder/proposer is qualified, based on the pre-established criteria, the procuring agency shall enter into negotiations with the bidder/proposer leading to a contract or service agreement.
 - c. The subrecipient shall obtain WisDOT approval prior to entering into a contract or an agreement with the proposer.
 - d. If the bidder/proposer is not qualified, then the procurement agency shall re-advertise the RFQ and seek adequate competition.
9. If more than one response to the RFQ/RFP is received, the procurement agency needs to determine the following:
- a. Are the bidders/proposers qualified?
 1. If it is determined, based on pre-established criteria that one or more of the bidders/proposers is qualified, then the procuring agency shall evaluate the proposals. Interviews of proposers may be utilized to further evaluate a proposer's fitness and ability to complete the assigned project. Note: If more than one bidder/proposer is qualified in an RFQ process, the procuring agency shall issue an RFP to those qualified bidders/proposers. One bidder/proposer shall be selected based on the information provided in the RFP combined with the scores given to the responses to the RFQ.
 2. The procuring agency shall obtain WisDOT approval prior to entering into a contract or an agreement with the selected proposer. **Do not award the contract until receipt of approval by WisDOT.**
 - b. If the procuring agency is unable to select a bidder/proposer, then the RFQ/RFP shall be reissued
10. The evaluation criteria and the evaluation process must be established at the start of the RFQ/RFP process and must be spelled out in the procurement documents. The procurement agency is expected to follow its own procedures to select a qualified bidder/proposer.

A selection committee will be convened to screen the proposals and make a recommendation for selection. The selection committee may be comprised of representatives of the transportation commission, planning agencies, ad hoc members, transit riders, etc.

Responsive proposals received in reply to an RFQ/RFP must be evaluated using pre-established criteria. The following criteria with percentage points are offered and should be used absent other evaluation methodology/criteria pre-approved by WisDOT. It should be noted that price is a mathematical calculation, while the other criteria scores are more qualitative.

Note: In negotiated contracts of shared-ride taxi services, compliance with WisDOT's Management Fee Policy is required. (See Appendix H).

Weight

1. Experience - The extent to which the firm has personnel with the necessary experience and training to perform the work. _____%
2. Professional Competence - The extent to which the firm has demonstrated competence in performing similar work and/or the extent of former client satisfaction. _____%
3. Capacity - The extent to which the firm has personnel, equipment and facilities to perform the scope of work. _____%
4. Proposals - The extent to which the firm's proposal demonstrates a thorough understanding of the scope of the undertaking and its contribution to the transit system. _____%
5. Price - The competitiveness of price. _____%

The price is evaluated by dividing the *lowest* proposal cost by the cost of each of the other proposals. The result is multiplied by the weight assigned to the price element. The resulting score is then assigned to that particular bidder/proposer. See the following example for clarification:

Criteria	&	Weight	Firm A	Firm B
Experience		30	25	28
Professional Competence		15	12	14
Capacity		15	12	12
Proposals		10	9	10
<u>Price</u>			\$75,000	\$80,000
		<u>30</u>	<u>30</u>	<u>28.13</u>
Total		100	88	92.13

In the above example, the calculations to score the price are as follows:

Lowest Proposal ÷ Other Proposal = _____ x Price Weight = Total Vendor Points

Firm A: \$75,000 ÷ \$75,000 = 1 x 30 = **30 Points**

Firm B: \$75,000 ÷ \$80,000 = .9375 x 30 = **28.13 Points**

The weight assigned to various selection criteria will determine which bidder/proposer is selected, so the percentage weights should be determined carefully.

The selection committee may interview firms whose proposals are determined to be the most consistent with the objectives of the overall transit system. The award of a contract is subject to approval by the governing body and WisDOT. If the selection committee or procuring agency conducts negotiations prior to the award of the contract, it will negotiate with all proposers in the competitive range, i.e., all offers that it determines have a reasonable chance of being selected based on cost or other factors.

The award of the contract will be made to the responsible firm whose proposal is most advantageous to the procurement agency's program with price and other factors considered.

The procuring agency will notify each proposer by certified mail of its selection within five business days from the date of the award.

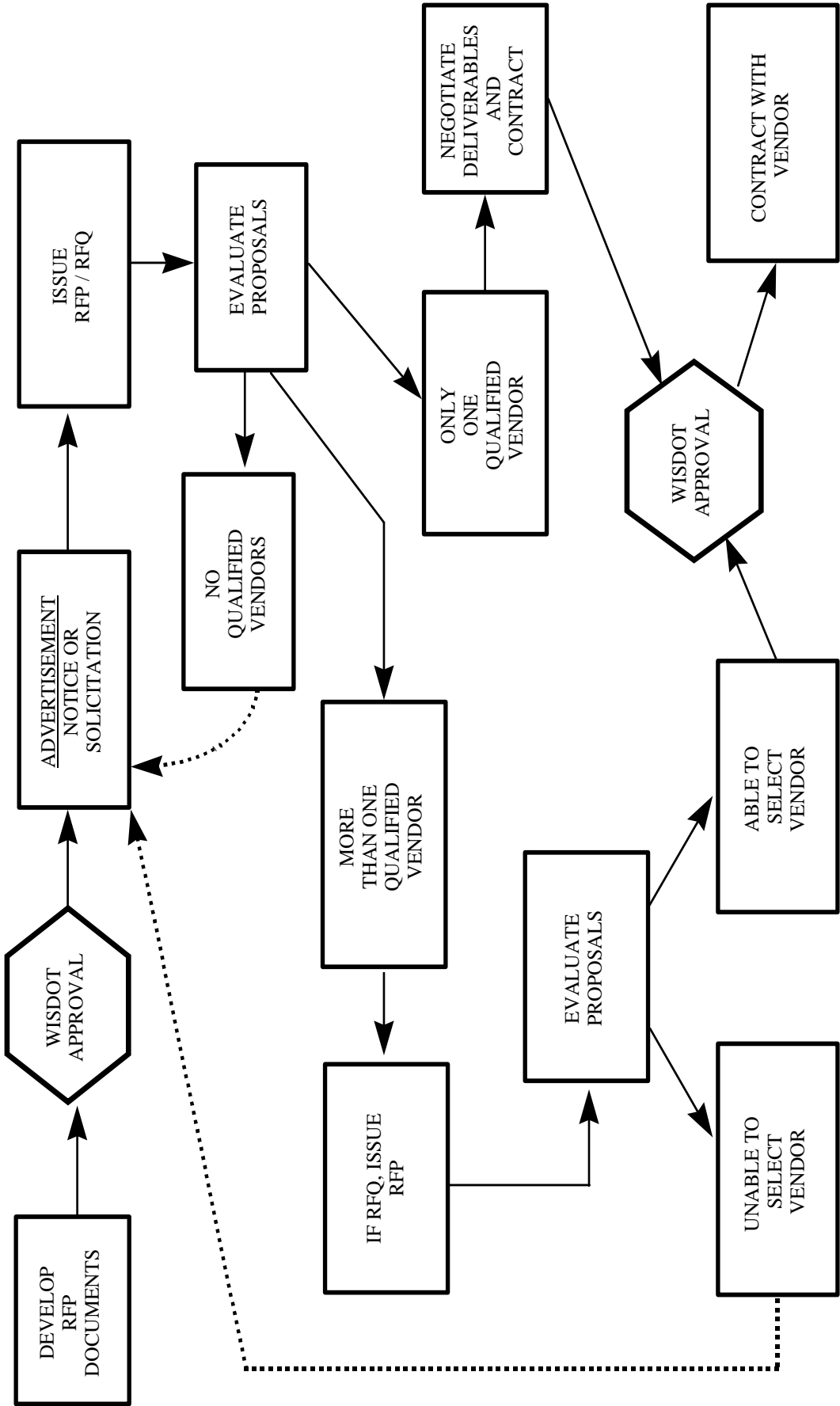
11. Complaint (or Protest) Procedure

Any bidder/proposer complaint should be received by the procuring agency's project manager within five working days of the formal written receipt of the award decision. The complainant can informally express any concerns or questions in person or by phone. The relative strengths and weaknesses of the proposals can be discussed along with the reasons the complainant's proposal was unsuccessful.

If the complainant's concerns cannot be satisfied through an informal process, a written complaint should be sent to the procuring agency within ten working days of their receipt of the award decision. The complaint will be reviewed following the protest procedures set forth in the procurement documents.

If the formal process fails to resolve the complaint, the complainant may refer the matter to the Director, Bureau of Transit and Local Roads. The Director's review is limited to a review of whether correct procedures have been followed. The Director shall not review the substance of a Municipality's decision to select a particular service provider.

PROCESS FOR PROCUREMENT OF TRANSPORTATION SERVICES AND/OR CONSULTING SERVICES



4.4 PROCEDURE FOR THE PURCHASE OF USED CAPITAL EQUIPMENT OR ROLLING STOCK

Although WisDOT ***does not encourage nor endorse the purchase of used capital equipment***, there may be situations where it is more cost effective to obtain used equipment or the process may be justified by time constraints associated with new purchases. These purchases will be reviewed and approved on a case-by-case basis. The following procedure will be used.

1. Document the need to purchase used equipment or rolling stock.
2. Obtain three independent appraisals of the equipment or rolling stock to be purchased.
3. Submit copies of the appraisals to WisDOT for determination of allowable cost. (Allowable cost will be determined by averaging the three appraisals, but shall not exceed the applicable amount in your capital grant contract).
4. Upon notification of WisDOT's allowable cost, negotiate with seller.
5. Purchase used equipment from dealer/seller.
6. Send invoice to WisDOT for payment, (include documentation showing WisDOT as lienholder for vehicle purchases).

4.5 PROCEDURE FOR REFURBISHING VEHICLES - UNDER \$25,000 COST

This procedure covers the refurbishing/rehabilitation/remanufacturing of items where the estimated costs is under \$25,000. For refurbishing/rehabilitation/remanufacturing of equipment with an estimated cost over \$25,000, WisDOT requires that a formal bid process be undertaken. Please refer to the Procedures for Purchase of New Capital Equipment or Rolling Stock of \$25,000 or More.

1. Prepare specification/data sheet and submit to WisDOT.
2. Obtain at least three (3) written quotes from reputable refurbishing firms.
3. Select lowest quote that meets specifications and submit copies of quotes to WisDOT for review and approval.
4. Award contract to WISDOT-approved dealer.
5. Upon receipt and inspection of item(s), send invoice to WisDOT for payment.

5. APPENDIX

The Appendices of this Procurement Manual consist of Federal Circulars, Glossaries, Required and Suggested Forms to be used in procurements, Policies, References, and useful Contacts.

WisDOT urges you to become familiar with these materials to ensure that your procurements run smoothly and in a manner compliant with FTA requirements

5.1 APPENDIX A - FEDERAL CIRCULAR 4220.1F THIRD PARTY CONTRACTING REQUIREMENTS

The FTA Circular 4220.1F, Third-Party Contracting Requirements, sets forth the requirements a subrecipient must adhere to in the solicitation, award and administration of its third-party contracts. These requirements are based on the common grant rules, federal statutes, Executive Orders and their implementing regulations, and FTA policy.

The following is the complete text of FTA Circular 4220.1F regarding Third Party Contracting regulations. We have included this document in the manual because of its importance.

The Circular *applies to all FTA grantees and subrecipients that contract with outside sources under FTA assistance programs*. If a subrecipient accepts operating assistance, the requirements of this circular apply to all transit-related third-party purchase orders and contracts. 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 subrecipients that do not receive FTA operating and planning assistance.

5.2 APPENDIX B - FEDERALLY REQUIRED & OTHER MODEL CONTRACT CLAUSES

The successful contractor is expected to be familiar with and meet all stated or otherwise applicable Federal Motor Vehicle Safety Standards (FVMSS), Americans with Disabilities Act rules, Society of American Engineers (SAE) rules, and international Fastener Institute (IFI) standards.

The complete text of the FTA Required & Model Contract Clauses has been included in this appendix. These materials should be used as reference information by subrecipients in developing their procurement documents and contracts.

Clauses specifically related to vehicle purchases can be found in Appendix C. If you are procuring vehicles, you should refer to Appendix C instead of this appendix.

Updates of this information can be found by accessing the FTA website at www.fta.dot.gov

5.3 APPENDIX C - SUMMARY OF FTA CLAUSES FOR VEHICLE PURCHASES

Appendix C contains a further refinement of the contract and certification clauses found in Appendix B. If you are purchasing vehicles, the clauses included in this appendix represent those which are specifically applicable to vehicle purchases using WisDOT federal grant funding.

The subrecipient must also ensure that the successful contractor for vehicles is familiar with and meets other federal regulations including: Federal Motor Vehicle Safety Standards (FMVSS), Americans with Disability Act (ADA) rules, Society of American Engineers (SAE) rules and International Fastener Institute (IFI) standards.

5.4 APPENDIX D - PROCUREMENT PACKAGE REQUIRED FORMS

This appendix presents required forms and certifications to be included in the procurement package. The forms have been adapted from the Standard Bus Procurement Guidelines prepared by APTA and from FTA regulations. The forms serve to certify compliance by the procuring agency and contractors with federal requirements. Required forms are separated into two categories and are presented in the order below.

Procurements of \$100,000 or Less

1. Overall Federal Regulation Compliance (*certification from Subrecipient and bidder/proposer*)
2. Certification of Compliance with Bus Testing Requirements (*certification from manufacturer*)
3. Compliance With Specifications (*certification from bidder/proposer*)

Procurements of \$100,000 or More

1. Overall Federal Regulation Compliance (*certification from Subrecipient and bidder/proposer*)
2. Certification of Compliance with Bus Testing Requirements (*certification from manufacturer*)
3. Compliance With Specifications (*certification from bidder/proposer*)
4. Buy America Certification (*certification from manufacturer*)
5. Debarment and Suspension Certification (*certification from bidder/proposer*)
6. Lobbying Certification (*certification from bidder/proposer*)
7. DBE Approval Certification (*certification from bidder/proposer and manufacturer*)
8. Pre-Award/Post Delivery Buy America Compliance Certification (*certification from subrecipient*)
9. Pre-Award/Post Delivery Purchaser's Requirements Certification (*certification from subrecipient*)
10. Pre-Award/Post Delivery FMVSS Compliance or Exemption Certification (*certification from subrecipient*)
11. Post-Delivery Purchaser's Requirements Certification (*More than Ten Buses or Modified Vans - certification from subrecipient*)

When the *estimated* cost of your procurement is very close to the dollar threshold of \$100,000, it is always a good idea to include all forms for "Procurements of \$100,000 or More". You can then avoid unanticipated delays in your procurement process.

In order to assist subrecipients understand and use each form and certification appropriately, a cover sheet is included before each form. The cover sheet addresses the following for each form:

- The applicability of each form to the agency and the bidding contractor (note that not all forms are required for all procurements)
- A summary description of the form
- Directions as to what to do with each form

5.5 APPENDIX E - WisDOT SUGGESTED FORMS

This appendix presents suggested forms to be used in procurements to communicate information between the procuring agency, prospective bidders or proposers, and WisDOT. The forms are presented in the order shown below:

1. Procuring Agency and Contracting Officer
2. Request for Change or Approved Equal
3. Acknowledgment of Addenda
4. Offeror Service and Parts Support Data
5. Form for Proposal Deviation
6. Pricing Schedule (procuring agency)
7. Offer and Award

A cover sheet accompanies each form to assist subrecipients understand their appropriate use. The cover sheet addresses the following:

- The applicability of each form to the agency and the bidding contractor (note that not all forms pertain to all procurements)
- A summary description of the form
- Directions as to what to do with each form

5.6 APPENDIX F- WisDOT PROCUREMENT PROCESS CHECKLISTS

Use the following three checklists as specified below in your procurement process to “check” steps as they are completed. WisDOT utilizes these checklists to monitor your procurement process and your compliance with federal regulations. The checklists also provide documentation for your grant file on the processes used to acquire goods or services.

- Checklist for Pre-Bid/Pre-Proposal Process(*to be submitted to WisDOT with draft procurement packet*)
- Subrecipient Pre-Award Bid/Proposal Review Checklist (*to be submitted to WisDOT with letter requesting concurrence with Contractor Selection*)
- Checklist of Post-Delivery Audit - Reimbursement Process (*to be submitted to WisDOT with letter requesting reimbursement*)

5.7 APPENDIX G - WisDOT AVL/ITS POLICY

For subrecipients with capital projects that include the purchase of AVL or ITS technology, WisDOT has developed a funding policy governing these technologies. Subrecipients should be familiar with WisDOT's policy before pursuing AVL or ITS projects.

5.8 APPENDIX H - WisDOT TAXI MANAGEMENT FEE POLICY

Subrecipients contracting with private firms (including shared-ride taxi service) are required by FTA to offer that contract for open competition at least every five (5) years. Because the management fee is an issue that may surface during negotiation for years which are not bid, the subrecipient shall be familiar with WisDOT's policy regarding the management fee.

5.9 APPENDIX I - WisDOT CONTACTS AND OTHER RESOURCES

Questions or clarifications regarding this manual can be directed to the WisDOT Public Transit and Specialized Transit Section staff listed in the following page. Other transit contacts have been included as potential resources that subrecipients may contact directly for assistance with procurement questions.

WISDOT CONTACTS AND OTHER RESOURCES

Name / Email Address	Federal Assistance Program	Telephone
John Alley, Chief John.alley@dot.wi.gov	Transit Section Chief	(608)266-0189
Dean Gauger Dean.guager@dot.wi.gov	Procurement Manager	(608)266-9637
David Lowe David.lowe@dot.wi.gov	Sections 5307 & 5309	(608) 266-9476
Monique Currie Monique.currie@dot.wi.gov	Section 5311 and Policy Questions	(608) 267-7345
Polly Miller polly.miller@dot.wi.gov	Financial Manager	(608)266-8508
Sara Probasco Sara.probasco@dot.wi.gov	WETAP, JARC, RTAP, DBE	(608)264-8426
Ingrid Koch Ingrid.koch@dot.wi.gov	New Freedom, Drug and Alcohol Rail Safety Oversight	(608)266-1379
Bobbie Beson-Crone Bobbie.BesonCrone@dot.wi.gov	Human Services Transportation Policy	(608)266-6812
Becky Soderholm Becky.soderholm@dot.wi.gov	STRAP, Federal Compliance	(608)266-1650

Additional Resources

U. S. Department of Transportation
Federal Transit Administration - Region V Office
200 Adams Street, Suite 2410
Chicago IL 60606-5232
Tel. (312) 353-4315
Fax. (312) 886-0351

American Public Transit Association (APTA)
1201 New York Avenue N. W.
Washington, D. C. 20005-6141
Tel. (202) 898-4000
Fax. (202) 898-4070
[http\>: www.apta.com](http://www.apta.com)

Community Transportation Association of America
1341 G Street, N. W., Suite 600
Washington, D. C. 20005
Tel. (202) 628-1480
[http\>: www.ctaa.org](http://www.ctaa.org)

REFERENCES

Best Practices Procurement Manual, FTA, February 1, 2000.

Capital Procurement Handbook, Arizona Department of Transportation, August, 1998

FTA Circular 4220.1F, Third Party Contracting Requirements, April 15, 1996.

Standard Bus Procurement Guidelines, American Public Transit Association.

Urbanized Area Formula Grants Management Workbook, Federal Transit Administration, 1997.

Note: Many of these publications are available on the internet at www.fta.dot.gov

Helpful procurement on-line reference guides:

FTA's Procurement Helpline

<http://www.ftahelpline.com/>

FTA's Best Practices Manual

<http://www.fta.dot.gov/library/admin/BPPM/>