

2019

Worcester Regional Transit Authority

*Policies & Procedures for
Federal Transit Authority
Related Procurements*

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POLICIES & PROCEDURES FOR FTA RELATED PROCUREMENTS

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Policies & Procedures for FTA Related Procurements

This document has been prepared in accordance with Federal Transit Administration (FTA) procurement policies. Please reference the [FTA's Master Agreement](#) for changes, assistance, and clarification. The Master Agreement contains standard terms and conditions governing the administration of a Project supported with Federal assistance awarded by the Federal Transit Administration (FTA) through a Grant Agreement or Cooperative Agreement with the Recipient, or supported through a loan, loan guarantee, or line of credit provided by FTA. Also, please refer to [FTA's Best Practices Procurement Manual](#) for procurement assistance, contract clauses and provisions.

Written Record of Procurement History

WRTA staff shall maintain records detailing the history of FTA associated procurements. These records shall be placed in the master file and include:

- The rationale for the method of procurement (See - [Decision Matrix](#));
- Selection of [contract type](#);
- [Reasons for contractor selection or rejection](#); and
- The basis for the contract price.

Procurement documentation files

Where appropriate, the file contains:

- Purchase request, acquisition planning information, and other pre-solicitation documents
- Rationale for method of procurement used (negotiations, formal advertising)
- List of sources solicited
- Research/outreach to Disadvantaged Business Enterprises (DBE)
- Research/information regarding Labor Surplus Area if applicable Independent [cost estimate](#)
- Copies of [published notices](#) of proposed contract action
- Copy of the solicitation (IFB, RFP, RFQ, etc.), all addenda, and all amendments
- Liquidated damages determination
- Copy of contractor quote, proposal, or qualifications
- WRTA staff determination of contractor responsiveness and responsibility
- [Cost or pricing data](#)
- Determination that price is fair and reasonable including an analysis of the cost and price data, required internal approvals for award
- Notice of award
- Notice to unsuccessful bidders or offerors and record of any debriefing,
- [Record of any protest](#)
- Bid, Performance, Payment, or other bond documents, and notices to sureties
- Required insurance documents, and
- Notice to proceed
- [SAM.gov](#) - Excluded Parties Search results screen print
- Debarment and Suspension form for procurements over \$25,000

Contract Administration File

Where appropriate, the file contains:

- Executed purchase order or [contract](#) and notice of award
- [Bond-related documents](#)
- Insurance documentation
- Post-award correspondence

- Notice to proceed
- Approvals or disapprovals of waivers and deviations
- Modifications and changes in the terms or conditions of the contract, including a rationale for the change, determinations regarding their scope, and cost/price analysis of any price increases or decreases.

In order to ensure a sound and complete agreement, WRTA staff will ensure the appropriate *Contract/Purchase Order File Index (Attachment 1: Sealed Bid Only or Attachment 2: RFP only)* is accurate, complete, and included in the master file. This information will be reviewed by the CFO to ensure the proper documentation levels are met for each procurement.

Awards to Responsible Contractors

The WRTA shall make awards only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed agreement. Consideration shall be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. In addition, to ensure that a contractor is not suspended, debarred, ineligible, or voluntarily excluded from participating in FTA procurements, the WRTA will, prior to entering into a contract, review the [SAM](#)- System for Award Management to ensure all contractors are listed as active and print the results for all procurements, and for procurements over \$25,000 the Debarment and Suspension form must be included as an attachment to the purchase order or contract.

WRTA Procurement staff must complete the attached *Responsibility Determination Form* prior to the issuance of an award. ([Attachment 3](#))

Methods of solicitation and selection

The methods of solicitation and selection allowed within the Federal contractual sphere - are listed in [FTA Circular 4220.1F](#). You may choose:

- [micro purchases](#) only for contract amounts \$10,000 or less (OMB, Effective 06/20/2018);
- [small purchase](#) procedures only for contract amounts less than the simplified acquisition threshold (note OM-18-18 increase to \$250,000 except when Buy America applies, in which case the preexisting \$150,000 still applies);
- [sealed bids](#) where
 - o you have a complete, adequate, and realistic specification or purchase description
 - o two or more responsible bidders are willing and able to compete
 - o the procurement lends itself to a firm fixed price contract and the selection can be made primarily on the basis of price
 - o no discussion with bidders is needed after receipt of offers;
- [competitive proposals](#); or
- [noncompetitive proposals \(sole source\)](#) procurement only if you can justify not soliciting additional competition in the manner explicitly defined in [FTA Circular 4420.1F](#)
- [best value](#) for contracts which indicate that the best value or the proposal which offers the greatest business value based upon an analysis of a tradeoff of qualitative technical factors and price/cost to derive which proposals represents the “best value” to the WRTA’s procurement.

WRTA Procurement staff must include the attached *Method of Procurement Decision Matrix Form* in the master file. ([Attachment 4](#))

Micro-Purchases

Procurement by micro-purchases are those purchases \$10,000 or less. Purchases below that threshold may be made without obtaining competitive quotations if the grantee determines that the price is fair and reasonable. Such purchases are exempt from Buy America requirements. There should be equitable distribution among qualified suppliers, and no splitting of procurements to avoid competition. The Davis-Bacon Act applies to construction contracts over \$2,000.

Minimum documentation required: A determination that the price is fair and reasonable and how this determination was derived must be completed prior to the issuance of an award. This determination shall be placed in the master file. Please use the *Price / Rate Quotation Form* ([Attachment 13](#)).

In the event of a micro-purchase being made; and then another request (same requester/same supplier) for additional items/services is made the following procedure will apply, keeping in mind that splitting procurements to avoid competition is prohibited.

- If the requisitioner requires the same supplier's item for this follow-on procurement (e.g., for reasons of standardization, etc.), then we would process this as a new "sole source" procurement (not as a change order).
- Document the file to establish why this procurement was not foreseen when the original requisition was processed, and obtain the necessary agency approvals for executing a sole source award.
- If, however, the agency can accept a different vendor's materials, then you should compete this requirement using small purchase procedures (with a limited number of quotes) instead of processing it as a non-competitive micro-purchase.

Small Purchases

Small purchase procedures are to be used if the services, supplies, or other property cost between \$10,000 and \$250,000.¹ threshold (note OM-18-18 increase to \$250,000 except when Buy America applies, in which case the preexisting \$150,000 still applies); If small purchases procedures are used, price or rate quotations shall be obtained from at least three qualified sources and submitted to WRTA staff prior to the issuance of an award. These price or rate quotations shall be placed in the master file. Please use the *Price / Rate Quotation Form* ([Attachment 13](#)).

Sealed Bids/Invitation for Bid (IFB)

Bids are publicly solicited and a firm-fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming to all the material terms and conditions of the invitation for bids, is the lowest in price. *Note: Sealed bids are evaluated by WRTA staff for compliance with bid specifications, responsible and responsive bidders, verification of pricing, fund availability, etc. WRTA staff transmits an award recommendation to the Assistant Administrator, which conditionally awards a contract.*

- (1) In order for sealed bidding to be feasible, the following conditions should be present:
 - a. A complete, adequate, and realistic specification or purchase description is available;
 - b. Two or more responsible bidders are willing and able to compete effectively for the business;
 - c. The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.
 - d. No discussion with bidders is needed.
- (2) If this procurement method is used, the following requirements apply:
 - a. The invitation for bids will be [publicly advertised](#) and bids shall be solicited from an adequate number of known suppliers, providing them sufficient time to prepare bids prior to the date

¹ A simplified acquisition threshold increase from \$150,000 to \$250,000 became effective on June 20, 2018 per OMB Memorandum OM-18-18. *Note: this increase does not apply to procurements for which Buy America applies. The small purchase amount is established at \$150,000 in FTA's statute at 49 U.S.C. 5323(j)(13) and is no longer tied to the simplified acquisition threshold.*

- set for opening the bids;
 - b. The invitation for bids, which will include any specifications and pertinent attachments, shall define the items or services sought in order for the bidder to properly respond;
 - c. All bids will be publicly opened at the time and place prescribed in the invitation for bids;
 - d. The Bid Summary Form (Attachment 11); Bid Checklist Form (Attachment 5), and Bid Cost Factors Form (Attachment 6) will be completed by the WRTA staff and placed in the master file;
 - c. A firm fixed-price contract award will be made in writing to the lowest responsive and responsible bidder. When specified in bidding documents, factors such as discounts, transportation costs, and life cycle costs shall be considered in determining which bid is lowest;
- (3) Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and
- (4) WRTA staff may reject any or all bids, or the transit provider requesting the procurement action, if there is a sound documented business reason. WRTA staff or transit provider rejecting lower bids than the bid being accepted for award must provide a detailed written Determination of Findings outlining the reasons for rejection to WRTA staff for inclusion in the master file.
- (5) The sealed bid method is the preferred method for procuring construction if the conditions in paragraph (1) above apply.

Competitive Proposal/Request for Proposals (RFP)

The competitive proposal method of procurement is normally conducted with more than one source submitting an offer or proposal. Either a fixed price or cost reimbursement type contract is awarded. This method of procurement is generally used when conditions are not appropriate for the use of sealed bids (i.e. when descriptions of experience, education, expertise, availability of services, etc, are necessary for evaluation). If this procurement method is used the following requirements apply:

- (1) Requests for proposals will be publicized.
- (2) All evaluation factors will be identified and included along with their relative importance in the RFP. If scores are based on a uniform scale (i.e. 1-10, or 1-100), it is best to define in advance levels of compliance, skills, or proximity to the ideal that each step of the scale represents. (i.e. a bachelor's degree is worth 25 points, a master's degree is worth 50 points, and a doctorate is worth 100 points)
- (3) Proposals will be solicited from an adequate number of qualified sources.
- (4) Written methods must be in place for conducting technical evaluations of the proposals received and for selecting awardees. This documentation must be submitted to WRTA staff for approval and inclusion in the master file.
- (5) Awards will be made to the responsible firm whose proposal is most advantageous to the WRTA's program with price and other factors considered. Other factors may include labor rates, specifications, labor hours, and delivery schedule. Documentation of the award justification should clearly identify key determination factors. Please use the *Award Recommendation and Justification Form* ([Attachment 12](#)).

Architectural and Engineering Services (A&E)

Departments shall use competitive proposal procedures based on the [Brooks Act](#) when contracting for A&E services as defined in [40 U.S.C. Chapter 11 §1101-1104](#). The Brooks Act is federal policy relating to the selection of firms individuals to perform architectural, engineering, and related services. Other types of services considered A&E services include program management, construction management, feasibility studies, preliminary engineering, design, surveying, mapping, and services which require performance by a registered or licensed architect or engineer.

The Brooks Act requires that:

- (1) An offeror's qualifications are evaluated;
 - (2) Price must be **excluded** as an evaluation factor;
 - (3) Negotiations be conducted with only the most qualified offeror; and
 - (4) Failing agreement on price, negotiations with the next most qualified offeror be conducted until a contract award can be made to the most qualified offeror whose price is fair and reasonable to the grantee.
- This "qualifications based procurement method" can only be used for the procurement of A&E services. This method of procurement cannot be used to obtain other types of services even though a firm that provides A&E services is also a potential source to perform other types of services.

National Intelligent Transportation Systems Architecture and Standards

When requesting services for transportation system architecture, the WRTA must ensure all offerors/bidders agree to conform, to the extent applicable, to the Intelligent Transportation Systems Architecture and Standards under the [FHWA](#) final rule, and with FTA Notice, "FTA National [\(ITS\)](#) Architecture Policy on Transit Projects and other subsequent Federal directives that may be issued.

Noncompetitive Proposals (Sole Source)

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

- (1) Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids, or competitive proposals and **at least one** of the following circumstances applies:
 - (a) The item is available only from a single source;
 - (b) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
 - (c) FTA authorizes noncompetitive negotiations;
 - (d) After solicitation of a number of sources, competition is determined inadequate
- (2) A cost analysis, i.e., verifying the proposed cost data, the projections of the data, and the evaluation of the specific elements of costs and profit, is required.

The *Noncompetitive Procurement Justification Form (Attachment 7)* and the *Sole Source Cost Analysis Form (Attachment 10)* must be completed submitted to WRTA staff prior to proceeding with this type of procurement.

Best Value

Best Value is a selection process in which proposals contain both price and qualitative components, and award is based upon a combination of price and qualitative considerations. Qualitative considerations may include technical design, technical approach, quality of proposed personnel, and/or management plan. The award selection is based upon consideration of a combination of technical and price factors to determine the offer deemed most advantageous and of the greatest value to the WRTA.

Protest Procedures

The procedures contained in [Appendix 1](#) shall be available to contractors for the purpose of handling and resolving disputes relating to procurements. A protestor must exhaust all administrative remedies before pursuing a protest in any court of law. Where applicable, any information received under such procedures shall be disclosed to the Federal Transit Authority ("FTA") and a protestor must exhaust all administrative remedies before pursuing a protest with the FTA.

Where applicable, review of protests by FTA will be limited to the WRTA's failure to have or follow its procedures, or its failure to review a complaint or protest. An appeal to FTA must be received by the cognizant FTA regional or Headquarters Office within five (5) working days of the date the protestor knew or should have known of the violation.

Include the language contained in [Appendix 1](#) in all Bids/RFPs/RFQs.

Costing and Pricing

Ensuring Most Efficient and Economic Purchase

Transit Contractors, during their annual budget process, should determine the procurement actions necessary to sustain their operations through the fiscal year. A list of these procurement actions should be forwarded to the Chief Financial Officer annually.

Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase and to avoid purchase of unnecessary or duplicative items. Where appropriate, an analysis will be made of lease versus purchase alternatives and any other appropriate analysis to determine the most economical approach. The WRTA considers various procurement sources to ensure economical purchases including, but not limited to GSA, State of Massachusetts, and municipal cooperatives.

Independent Cost Estimates

A cost or price analysis must be performed for every procurement action, including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation. Any cost or price analysis must be based on an independent estimate, which should be developed before a solicitation is issued, but in no event after the receipt of bids or proposal. For contract modifications, the independent estimate must be prepared without knowledge of the contractor's proposed pricing.

For all procurements other than a Micro-Purchase, the *Independent Cost Estimate Form* must be submitted to the WRTA staff prior to issuing any solicitation ([Attachment 7A](#)).

1. Cost Analysis

- a. A cost analysis must be performed when the offeror is required to submit the elements (i.e., Labor Hours, Overhead, Materials, etc.) of the estimated cost, e.g., under professional consulting and architectural and engineering services contracts.
- b. A cost analysis will be necessary when adequate price competition is lacking and for sole source procurements, including contract modifications or change orders, unless price reasonableness can be established on the basis of a catalog or market price of a commercial product sold in substantial quantities to the general public or on the basis of prices set by law or regulation.
- c. Adequate price competition may be determined to exist when the perception of competition exists, even if only one bid or proposal is received; conversely, the receipt of multiple bids or proposals with widely differing prices may not constitute adequate price competition.
- d. Profit is to be negotiated as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration will be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting,

the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

2. Price Analysis

- a. A price analysis looks at the price as a whole without examination of its various components, and is usually performed by comparing prices to those from other comparable procurements.
- b. A price analysis may be used in all instances where a cost analysis is not required to determine the reasonableness of the proposed contract price.

The *Cost and Price Analysis Form* must be completed prior to issuing any purchase order, contract, or contract modification. ([Attachment 7B](#))

Federal Cost Principles

Costs or prices based on estimated costs for contracts under grants will be allowable only to the extent that costs incurred or cost estimates included in negotiated prices are consistent with Federal cost principles. WRTA staff may reference their own cost principles that comply with applicable Federal cost principles.

Cost Plus Percentage of Cost Prohibited

The cost plus a percentage of cost and percentage of construction cost methods of contracting shall not be used.

Full and Open Competition

The principle of full and open competition has one primary and two secondary purposes. The primary purpose is to obtain the best quality and service at minimum cost. In other words, to get the best buy. The secondary purposes are to guard against favoritism and profiteering at public expense and to provide equal opportunities to participate in public business to every potential offeror.

Departments must conduct all procurement in a manner providing full and open competition. This policy assures that all responsible bidders are permitted to compete for the procurement. In the case of sole or single source procurement, justification for use of the source must be documented on the *Noncompetitive Procurement Justification Form* ([Attachment 7](#)). Also see [Sole Source Contracting Section](#) of this Manual.

Contracts with a value greater than \$150,000 (Buy America) or \$250,000 (non-Buy America) shall be awarded by sealed bid or by the competitive and noncompetitive proposal process unless there is an explicit exception.

Transit Contractors must refrain from the following practices, which are deemed restrictive of competition:

- a. Unreasonable requirements placed on firms in order for them to qualify to do business;
- b. Unnecessary experience and excessive [bonding requirements](#);
- c. Noncompetitive pricing practices between firms or between affiliated companies;
- d. Noncompetitive awards to any person or firm on retainer contracts;
- e. Organizational [conflicts of interest](#);
- f. Restrictive use of [brand names](#);
- g. Any arbitrary action in the procurement process; and
- h. [Geographic preferences](#)

All Transit Contractors must submit all required forms to WRTA staff prior to issuance of an award letter or purchase order.

Bonding Requirements

For those construction or facility improvement contracts or subcontracts exceeding \$150,000, FTA may accept

the WRTA's bonding policy and requirements, provided that they meet the minimum requirements for construction contracts as follows:

- a. A bid guarantee from each bidder equivalent to five (5) percent of the bid price. The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified;
- b. A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract; and
- c. A payment bond on the part of the contractor. A payment bond is one executed in connection with a contract to assure payment, as required by law, of all persons supplying labor and material in the execution of the work provided for in the contract. Payment bond amounts required from contractors are as follows:
 - (1) 50% of the contract price if the contract price is not more than \$1 million;
 - (2) 40% of the contract price if the contract price is more than \$1 million but not more than \$5 million; or
 - (3) \$2.5 million if the contract price is more than \$5 million.
- d. A cash deposit, certified check or other negotiable instrument may be accepted by a grantee in lieu of performance and payment bonds, provided the grantee has established a procedure to assure that the interest of FTA is adequately protected.
- e. The WRTA may seek FTA approval of its bonding policy and requirements if they do not comply with these criteria.

Brand Name or Equal

Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not contain features unduly restricting 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.

Transit Contractors 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 Transit Contractor 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.

Conflicts of Interest

The WRTA's Code of Ethics covers standards of conduct and conflict of issues. In addition to the Code of Ethics, employees, officers, board members, or agents of the WRTA are prohibited from participating in the selection, award, or administration of contracts or subagreements supported by federal funds if a real or apparent conflict of interest exists. To that end, any of the above mentioned persons must submit a *WRTA Disclosure Statement* ([Attachment 8](#)) to the Administrator on an annual basis. The Chief Financial Officer will coordinate this prior to the beginning of each calendar year.

The following language must be included in all RFPs for design and evaluation services covered under this section. This statement prohibits contractors from bidding on follow-up (add on) construction work resulting from the design.

"In order to prevent real or apparent conflicts of interest, the WRTA prohibits contractors that have

participated in FTA-funded design or evaluation services from bidding on any resulting construction work, services, or capital equipment purchases. All specifications prepared by design consultants must be written in such a manner that any reasonable, competent contractor could understand the requirement and perform the work”

Geographic Preferences

Departments shall conduct procurements in a manner that prohibits the use of statutory 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.

WRTA DBE Objective / Policy Statement – 49 CFR § 26.1, 26.23

The Worcester Regional Transit Authority (WRTA) has established a Disadvantaged Business Enterprise (DBE) Program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR § 26. The WRTA has received Federal financial assistance from the DOT and as a condition of receiving this assistance, the WRTA has signed an assurance that it will comply with 40 CFR § 26.

It is the policy of the WRTA to ensure that all contracts and procurement will be administered without discrimination on the basis of race, color, national origin or sex. The WRTA ensures that Disadvantaged Business Enterprises (DBEs) shall have an equal opportunity to compete for and participate in DOT-assisted contracts. It is also our policy to:

1. To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
2. To ensure that the DBE program is narrowly tailored in accordance with applicable law;
3. To ensure that only firms that fully meet 49 CFR § 26 eligibility standards are permitted to participate as DBEs;
4. To help remove barriers to the participation of DBEs in DOT-assisted contracts;
5. To assist the development of firms that can compete successfully in the marketplace outside the DBE program

The Chief Financial Officer has been designated as the DBE Liaison Officer. The DBE liaison officer has direct, independent access to the Chief Executive Officer (Administrator) concerning DBE program matters. The liaison officer is responsible for implementing all aspects of the WRTA DBE program. The WRTA has adequate staff, (including procurement, finance, etc.), to administer the program in compliance with 49 CFR § 26.

Review the WRTAs DBE Policy for additional guidance related to the outreach and inclusion activities of DBE and Small Business in WRTA’s procurements.

Written Selection Procedures

To ensure all procurements are awarded in a fair and equitable manner, all solicitations shall:

- a. Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not 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.
- b. Identify all requirements that offerors must fulfill and all other factors to be used in evaluating bids or proposals.

Evaluators and reviewers must follow the established criteria when rating the proposals.

Prequalification of Bidders

WRTA staff 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. In addition, the WRTA shall not preclude potential bidders from qualifying during the solicitation period, which is from issuance of the solicitation to its closing date.

Advertising and Publicizing Solicitation

IFBs and RFPs must be publicly advertised and publicized (respectively) at least seven (7) days prior to the solicitation's due date. A longer time period is suggested for larger, more complex procurements. Outreach efforts must be made using diverse resources such as the Internet and mailing lists coupled with widely circulated publications.

IFBs must be issued with sufficient time to prepare bids prior to the date set for opening the bids. Further, the invitation for bids will include any specifications and pertinent attachments and shall properly define the items or services sought in order for the bidder to properly respond. RFPs must identify all evaluation factors along with their relative importance. WRTA staff shall place copies of all advertising and publicized solicitation material in the related master file.

Contractor Information Form

In accordance with 40 CFR §26.11, the WRTA shall collect information on the availability of Disadvantaged Business Enterprise (DBE) contractors that seek to work on federally assisted contracts. Each contractor responding to such a solicitation shall complete the Contractor Information Form for each contractor and subcontractor.

Pre-Bid and Pre-Proposal Conferences

Pre-bid and pre-proposal conferences are generally used in complex acquisitions as a means of briefing prospective offerors and explaining complicated specifications and requirements to them as early as possible after the solicitation has been issued and before offers are received. This is also an open forum for potential respondents to address ambiguities in the solicitation documents that may require clarification. Notice of the conference is included in the solicitation at the time of issuance.

Evaluations of Bid Alternates

When bid alternates are included in a bid or proposal document, these alternates must be evaluated as part of the overall bid. This evaluation must be in a written narrative detailing the contract award and takes the alternate into account in reaching a procurement decision. This evaluation must be submitted to WRTA staff prior to proceeding with the procurement.

Exercise of Bid Alternates

Bid Alternates may not be exercised unless it is in accordance with the terms and conditions stated in the initial contract. In addition, the requesting department must have made a determination that the alternate price is better than the market price or that the option price is more advantageous. Full written documentation supporting this determination must be submitted to WRTA staff.

Types of Contracts

General

All FTA related procurements must use the [Contract/Purchase Order File Index Forms](#) as provided in Attachment 1 (for Sealed Bids Only) or Attachment 2 (for RFPs only). These checklists will be used by the WRTA staff to ensure contract clauses and federal flowdown language is included in each contract as

required.

Fixed Price v. Cost Reimbursement

Procurement by the Sealed Bid/Invitation for Bids (IFB) method is used under certain conditions, including:

- a. The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.
- b. [FTA Circular 4220.1F](#) authorizes procurement by the Competitive Proposal/Request for Proposals (RFP) method and either a fixed price or cost reimbursement type contract may be awarded.
- c. [FTA Circular 4220.1F](#) requires that departments must document their reasons for selecting the contract type as a part of the written record of procurement history.
- d. [FTA Circular 4220.1F](#) prohibits the cost plus a percentage of cost method of contracting.

There are two broad categories of contract types: fixed-price contracts and cost-reimbursement contracts. Within these two families of contract types there are a number of subtypes offering differing degrees of incentives. At the extremes are the firm-fixed-price contract, in which the contractor has complete responsibility for the costs of performance and the resulting profit or loss, and the cost-plus-fixed-fee contract, in which the contractor has virtually no risk for performance costs and the fee (profit) is fixed. Between these two extremes are the various incentive-type contracts where the degree of cost risk and profit incentive can be tailored to meet almost any specific program situation.

Fixed-price contracts

These contracts are appropriate for acquiring commercial items, or for supplies or services which can be clearly defined with either performance/functional specifications or design specifications, and where performance uncertainties do not impose unreasonably high risks upon the contractor.

Cost-reimbursement contracts

These contracts are one in which the WRTA does not contract for the performance of a specified amount of work for a predetermined price, but agrees instead to pay the contractor's reasonable, allocable and allowable costs of performance regardless of whether the work is completed. The WRTA assumes a high risk of incurring cost overruns, while the contractor has almost no risk of financial losses. Cost-type contracts are suitable when (a) you are unable to accurately describe the work to be done, or (b) there is an inability to accurately estimate the costs of performance. If either of these conditions is present, the cost-reimbursement contract is the proper type of contract.

Time and Materials Contracts

WRTA will use time and materials contracts only if:

- (1) After determination that no other type of contract is suitable;
- (2) The contract specifies a ceiling price, and the contractor shall not exceed that price, except at its own risk; and
- (3) The *Method of Procurement Decision Matrix Form* ([Attachment 3](#)) must included with the file for this type of contract.

Discussion from Best Practices Manual:

Time-and-materials (T&M) contracts may be used for acquiring supplies or services. These contracts provide for the payment of labor costs on the basis of fixed hourly billing rates which are specified in the contract. These hourly billing rates would include wages, indirect costs, general and administrative expense, and profit. There is a fixed-price element to the T&M contract - the fixed hourly billing rates. But these contracts also operate as cost-type contracts in the sense that labor hours to be worked, and paid for, are flexible. Materials are billed at

cost, unless the contractor usually sells materials of the type needed on the contract in the normal course of his business. In that case the payment provision can provide for the payment of materials on the basis of established catalog or list prices in effect when the material is furnished. These contracts also may provide for the reimbursement of material handling costs, which are indirect costs, such as procurement, inspection, storage, payment, etc. These indirect costs are billed as a percentage of material costs incurred (similar to the billing of overhead costs as a percentage of direct labor). Such material handling costs must be segregated in a separate indirect cost pool by the contractor's accounting system and must not be included in the indirect costs included as part of the fixed hourly billing rate for direct labor. It would always be prudent to obtain a pre-award audit of the contractor's accounting system to determine the adequacy of the system to properly segregate material handling costs from other overhead costs being billed with the fixed hourly rates for labor.

Use Only When No Other Type Will Work - The FTA Circular requires that you make a determination, before using this type of contract, that no other type of contract is suitable. The reason why this type of contract is the least preferable of all allowable types is that it creates a disincentive for the contractor to complete the contract in a timely manner. Since each labor hour expended carries with it a profit (and a predetermined overhead charge) built into the fixed hourly rate, the contractor is motivated to work as many hours as possible. There is no incentive to complete the contract quickly, and thus minimize total costs to the buyer. (In a CPFF contract the fee is fixed in dollar terms at the outset of the contract, allowing the contractor to earn the fee whenever the work is complete, thus providing some incentive to finish the contract as quickly as possible.)

Subcontracts - If your T&M contract will involve subcontracts for large dollar items or services, you will need to evaluate whether the contractor's material handling costs should be charged to these large dollar subcontracts as an indirect cost (as an overhead type of charge), because to do so may result in an inequitable allocation of these indirect costs to your contract. This is because the large dollar value subcontract will absorb a far greater proportion of the indirect cost pool than it should, based on a reasonable assessment of the material handling costs actually generated by the subcontract versus those generated by all other materials procured by the contractor for other customers. When this situation arises you will want to negotiate an advance agreement with the contractor as to the charging of material handling costs. It may be more equitable to pay for the cost of subcontract administration on a direct charge basis; i.e., the labor cost for the subcontract administrator charged directly. Or you may want to negotiate a reduced indirect material handling cost rate to be charged to the subcontract (which represents a more equitable allocation of the material handling costs actually generated by the subcontract).

Ceiling Price - You will need to specify the Agency's maximum obligation (ceiling price) in the contract; i.e., the limitation of the Agency's financial obligation which the total funds allotted to the contract will allow. The contractor may not exceed this funding limitation without your written authorization in the form of a contract modification adding more funds.

Proper Agency Surveillance - This type of contract requires a high degree of Agency surveillance during performance in order to provide reasonable assurance that efficient methods and cost controls are used by the contractor.

Avoid Cost Plus Percentage of Cost Arrangements - As discussed below under CPPC contracts, care must be taken not to structure an agreement which compensates the contractor at a *predetermined percentage (for overhead or profit) of actual costs incurred*. If you break out the overhead and profit from the labor rate and call for them to be billed as separate rates based on actual labor costs incurred, you will have an illegal cost plus percentage of cost situation. Overhead and profit must be recovered as a part of the fixed hourly billing rate for labor, as discussed above. You may allow the contractor to bill material handling costs as an indirect cost rate

applied to actual material costs, provided the contractor segregates material handling costs in the accounting system. You should conduct a contract cost close-out audit of the material handling cost pool and adjust the rates billed to those actually incurred (as you would do for an overhead rate on a cost-reimbursement contract). However, where the actual material handling costs are not large, Agencies may elect to close out the T&M contract without a final cost audit of the material handling cost pool.

Labor / Hour Contracts

Labor / hour contracts are a variation of the time and materials contract, differing only in that materials are not supplied by the contractor. You should use this type of contract only when no other would be suitable, and you need to document your determination if you choose to use this type of contract.

Cost Plus Percentage of Cost Contracts (CPPC)

[FTA Circular 4220.1F](#) clearly prohibits the use of this contracting method.

Contract Changes

Recipients are, however, required to report post grant award deviations from budget or project scope or objective, and request prior approvals from FTA for budget and program plan revisions generally when those deviations would result in the need for additional funding. See 2 C.F.R. § 200.308, Revision of budget and program plans, and FTA Circular 4220.1F, Chapter VII, paragraph 2. Changes and Modifications.

Out of Scope Changes

An “out of scope change” is a contract amendment or change order that is not within the scope of the original contract; such a change is considered a sole source procurement. Please use the [sole source policies](#) for this type of action. [FTA Circular 4220.1F](#).

Contract Term Limitation

The WRTA shall not enter into any contract for rolling stock or replacement parts with a period of performance exceeding five (5) years inclusive of options. All other types of contracts (supply, service, lease of real property, revenue and construction, etc.) will be based on sound business judgment. Length of contracts shall be for not more than the amount of time required to accomplish the purpose of the contract, and will also include consideration for competition, pricing, fairness, and public perception. Once a contract has been awarded, an extension of the contract term length that amounts to an out of scope change will require a sole source justification.

Revenue Contracts

Revenue contracts are those third party contracts whose primary purpose is to either generate revenues in connection with a transit related activity, or to create business type opportunities utilizing an FTA funded asset. FTA requires these contracts to be awarded utilizing competitive selection procedures and principles. The extent of and type of competition required is within the discretionary judgment of the Administrator.

Tag-ons

The use of tag-ons, or the addition of work including supplies, equipment or services, that is beyond the scope of the original contract that amounts to a cardinal change as generally interpreted in Federal practice by the various Boards of Contract Appeals, is prohibited and applies to the original buyer as well as to others. In scope “tag-on” changes are not considered tag-ons.

Piggybacking

Piggybacking is an assignment of existing contract rights to purchase supplies, equipment or services. Piggybacking is permissible when the solicitation document and resultant contract contain an assignability clause that provides for the assignment of all or a portion of the specified deliverables as originally advertised, completed, evaluated, and awarded. If the supplies were solicited, competed and awarded through the use of an indefinite-delivery-indefinite-quantity (IDIQ) contract, then both the solicitation and contract award must contain both a minimum and a maximum quantity that represents the reasonably foreseeable needs of the party(s) to the solicitation and contract. If the WRTA and another party jointly solicit and award an IDIQ contract, then there must be a total minimum and maximum.

E-Commerce

E-Commerce is an allowable means to conduct procurements. If an E-Commerce solicitation will be utilized, full and open competition must be addressed in compliance with [FTA Circular 4220.1F](#).

Maintenance of Contract Oversight

The WRTA Administrative staff conducts routine and specific-purpose oversight activities with Subrecipients and Third-Party Contractors. Examples of these activities may include, but are not limited to:

- Review of progress reports to the Administrator (CMRPC);
- Review of FY-based workplans (CMRPC);
- Collection, analysis, and reporting of transit operational data from third-party contractors (performed by CMRPC and by CMTM/PBSTM);
- Statistics production for WRTA Auditor and NTD reporting (oversight by Chief Financial Officer);
- Meeting attendance/participation (i.e. CMMPO/CMRPC; WRA, WRTA Advisory Board);
- on-site consultation and records review, and
- site visits and inspections (if applicable, i.e. facilities, vehicles, or equipment)

This work occurs throughout each FFY.

Procedure for Dispute Resolution

The WRTA has the authority and responsibility to settle protests, claims, and disputes with its third party contractors. In the course of its duties, the WRTA shall:

- notify FTA of any current or prospective major dispute, breach, default, or litigation pertaining to the FTA funded project.
- If the WRTA proposes to name the Federal Government as a party to the litigation for any reason, the WRTA shall inform FTA before doing so.

The WRTA acknowledges that FTA reserves the right to concur in any compromise or settlement of any claim involving the Project and the WRTA.

The WRTA shall follow the guidance in 2 C.F.R. § 200.339 and 2 C.F.R. part 200, Appendix II

Payments

Advance Payments

FTA does not authorize, and will not participate in funding payments to a contractor prior to the incurrence of costs by the contractor unless prior written concurrence is obtained from FTA. Section IV, Paragraph 2 (5) (b) of [FTA Circular 4220.1F](#) discusses the “Exception for Sound Business Reasons” when Advance Payments may be used.

Progress Payments

The WRTA may use progress payments provided the following requirements are followed:

1. Progress payments are only made to the contractor for costs incurred in the performance of the contract.
2. When progress payments are used, the grantee must obtain title to property (materials, equipment, etc.) for which progress payments are made. Alternative security for progress payments by irrevocable letter of credit or equivalent means to protect the grantee's interests in the progress payments may be used in lieu of obtaining title.

Contract Provisions

All contracts shall include provisions to define a sound and complete agreement. In addition, contracts and subcontracts shall contain contractual provisions or conditions that allow for:

- a. Administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, including sanctions and penalties as may be appropriate (all contracts in excess of the [small purchase](#) threshold), and
- b. Termination for cause and for convenience by the WRTA or subgrantee including the manner by which it will be effected and the basis for settlement (all contracts in excess of \$10,000).

Liquidated Damages Provisions

The WRTA may use liquidated damages if it may reasonably expect to suffer damages (increased costs on project involved) from late completion and the extent or amount of such damages would be difficult or impossible to determine. In order to obtain liquidated damages, the WRTA must suffer an actual loss. The amount of liquidated damages must be reasonable in light of the loss suffered. The assessment for damages shall be at a specific rate per day for each day of overrun in contract time; and the rate must be specified in the third party contract. Any liquidated damages recovered shall be credited to the project account involved unless the FTA permits otherwise.

Architectural and Engineering Services Conflicts of Interest

The following language must be included in all RFPs for design and evaluation services covered under this section. This statement prohibits contractors from bidding on follow-up (add on) construction work resulting from the design.

“In order to prevent real or apparent conflicts of interest, the WRTA prohibits contractors that have participated in FTA-funded design or evaluation services from bidding on any resulting construction work, services, or capital equipment purchases. All specifications prepared by design consultants must be written in such a manner that any reasonable, competent contractor could understand the requirement and perform the work.”

Flowdown of FTA Clauses

Please see the attached *FTA Contract Clauses (Applicability of Third-Party Contract Provisions)* as a guide to ensure the proper clauses are included in the procurement process. These clauses are required to be included in all FTA contracts and purchase orders ([Attachment 9](#)). A full text of all [Federally Required and Other Model Contract Clauses](#) may be found here.

Inclusion and Applicability of Third-Party Contract Clauses in Worcester Regional Transit Authority Procurements.

It is the policy of the WRTA to include applicable FTA contract clauses in all of its federally funded procurements.

To ensure this occurs, each procurement will be reviewed and compared to the Third Party contract clauses

table to ensure that the applicable clauses are included, when required, as an attachment to the purchase order or contract being issued. The purchase order and its related contract clauses will then be forwarded to the WRTA Administrator for approval, and then forwarded to the vendor/contractor for their acceptance and approval.

These contract clauses will also be made publically available on the WRTA website.

Buy America

As a condition of responsiveness to bidding for procurements of rolling stock, iron, steel, or manufactured products greater than \$150,000 the bidder must submit with the bid or offer, a completed Buy America certificate in accordance with Part 661.6 for steel, iron, and manufactured products, or Part 661.12 for rolling stock (including train control, traction power, and communication equipment). Once submitted the bidder is bound by the certification provided. If the bidder does not submit a certification, the bid shall be considered non-responsive. If the bidder executes certification that it cannot comply but may be eligible for an exception, then the WRTA shall review the circumstances and determine if it should request a waiver form the FTA. There are specific instances included in the regulations for waiver of Buy America provisions, including that it is in the public's best interest, that there are no U.S. products available, or there is a 25 percent price difference between the foreign and domestic products. See the [FTA Buy America web page](#) for additional information on requirements. Certifications in compliance with Parts 661.6 and 661.12 are provided in [Attachment 14](#).

Lobbying

Contractors who apply or bid for an award of \$100,000 or more must file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each level of FTA fund recipient certifies to the level above it that it will not and has 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. Each FTA fund recipient must also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that specific Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from each level of fund recipient to the next level of fund recipient until it reaches the grantor. See "Lobbying" as provided in [Federally Required and Other Model Contract Clauses](#). Certifications in compliance with 49 CFR part 19 and 20; and 31 U.S.C. 1352 are provided in [Attachment 15](#), this form must be completed for each procurement over \$100,000 and included in the procurement file. A copy of this document is included in the contract clauses and also in the purchase order template.

ATTACHMENTS



WRTA
Contract / Purchase Order File Index (for Sealed Bids Only)

INSTRUCTIONS: Applicable items should be entered in chronological order by tab number. Documents maintained in the file will be numbered and filed consecutively in each section with the highest number on top. When an item is not applicable, it will be designated with “NA” in the tab column.

Section A – Solicitation Documents		
Tab #	Document(s)	Audit
1	Purchase Request	
2	Specifications & DBE Goals	
3	Requirement Justification	
4	Independent Cost Estimate	
5	Bidder’s List	
6	Contractor Information Form	
7	Justification of Procurement Method	
8	Copy of IFB	
9	Proof of publication	
10	IFB Attachments / Modifications	
11	Pre-Bid Minutes & List of Attendees	
12	Correspondence with Bidders	
13	Protests Prior to Bid Opening	
14	Interoffice Correspondence	
15	Review of Responsiveness	

Sealed Bid No. _____

Date: _____

Contract Administrator: _____



WRTA
Contract / Purchase Order File Index
(For Sealed Bids Only)

INSTRUCTIONS: Applicable items should be entered in chronological order by tab number. Documents maintained in the file will be numbered and filed consecutively in each section with the highest number on top. When an item is not applicable, it will be designated with “NA” in the tab column.

Section B – Award Documents		
Tab #	Document(s)	Audit
1	Rationale for Method of Procurement Copy of Each Bid	
2	Late Bid – Bid Errors	
3	Bid Analysis / Tabulation Sheet	
4	Technical Evaluation & Pre-Award Survey	
5	Affirmative Action Evaluation / DBE Plan	
6	Bidder’s Responsibility Determination	
7	Price Analysis	
8	Record of Negotiation for Single Bid	
9	Justification of Contract Type	
10	Award Recommendation Memo	
11	Board Resolution	
12	Notice of Award	
13	Notice to Unsuccessful Bidders (Bond, Check Returns)	
14	FTA Approval	
15	Legal Review of Contract Documents	
16	Contract Document	
17	Bond & Certificate of Insurance	
18	Notice to Proceed	
19	Purchase Order	



WRTA
Contract / Purchase Order File Index
(For Sealed Bids Only)

INSTRUCTIONS: Applicable items should be entered in chronological order by tab number. Documents maintained in the file will be numbered and filed consecutively in each section with the highest number on top. When an item is not applicable, it will be designated with “NA” in the tab column.

Section C – Contract Administration Documents		
Tab #	Document(s)	Audit
1	Post Award Conference	
2	Status Reports	
3	Change Notices / Modifications / Change Orders	
4	Site Visit Reports	
5	Progress Meeting Minutes	
6	Quality Assurance Records	
7	Termination / Stop Work Notices or Resolution Plan	
8	Invoices and Check Requests	
9	Records of Payments	
10	Notice of Substantial Acceptance	
11	Notice of Claims	
12	Release of Claims / Bonds	
13	Assignments	
14	Notice of Final Payment	
15	Audit Reports	
16	Liquidated Damages	
17	Close Out Documentation	



**WRTA
Contract / Purchase Order File Index
(For RFPs Only)**

INSTRUCTIONS: Applicable items should be entered in chronological order by tab number. Documents maintained in the file will be numbered and filed consecutively in each section with the highest number on top. When an item is not applicable, it will be designated with “NA” in the tab column.

Section A – Solicitation Documents		
Tab #	Document(s)	Audit
1	Purchase Request Rationale for Method of Procurement	
2	Specifications / Statement of Work	
3	Justification for Procurement	
4	Cost Estimate	
5	Set Aside Decision / DBE Goal	
6	Contractor Information Form	
7	Justification of Procurement Method	
8	List of Prospective Proposers	
9	Proof of publication	
10	Copy of RFP	
11	Addenda	
12	Pre-Proposal Minutes & List of Attendees	
13	Correspondence with Bidders	
14	Interoffice Correspondence	
15	Review of Responsiveness	

RFP No. _____

Date: _____

Contract Administrator: _____



WRTA
Contract / Purchase Order File Index
(For RFPs Only)

INSTRUCTIONS: Applicable items should be entered in chronological order by tab number. Documents maintained in the file will be numbered and filed consecutively in each section with the highest number on top. When an item is not applicable, it will be designated with “NA” in the tab column.

Section B – Award Documents		
Tab #	Document(s)	Audit
1	Copy of Each Proposal	
2	Proposal Tabulation Sheet	
3	Evaluation Team Notification	
4	Evaluation Sheet / Matrix	
5	Pre-Award Survey	
6	Determination of Zone of Consideration	
7	Late Proposers	
8	Invitations for Oral Interviews	
9	Notice of Rejection	
10	Minutes of Meetings	
11	Correspondence with Proposers	
12	Cost or Price Analysis	
13	Justification of Contract Type	
14	Negotiation Memorandum	
15	Copy of Each Best & Final Offer	
16	Award Recommendation Memo	
17	Board Resolution	
18	Legal Review of Contract Documents	
19	Notice of Award	
20	Notice to Unsuccessful Bidders	
21	Procurement Summary	
22	Determination and Findings	
23	Bonds & Certificates of Insurance	
24	Contract Document	
25	Notice to Proceed	
26	Purchase Order	



WRTA
Contract / Purchase Order File Index
(For RFPs Only)

INSTRUCTIONS: Applicable items should be entered in chronological order by tab number. Documents maintained in the file will be numbered and filed consecutively in each section with the highest number on top. When an item is not applicable, it will be designated with “NA” in the tab column.

Section C – Contract Administration Documents		
Tab #	Document(s)	Audit
1	Post Award Conference	
2	Quality Assurance Records	
3	Change Notices / Modifications / Change Orders	
4	Periodic Status Reports	
5	Contractor Evaluation Form	
6	Site Visit Reports	
7	Termination / Stop Work Notices or Resolution Plan	
8	Invoices and Check Requests	
9	Records of Payments & Receipts	
10	Advance or Progress Payment Documents	
11	Notice of Substantial Acceptance	
12	Punch List Discrepancies	
13	Notice of Final Acceptance	
14	Notice of Claims	
15	Release of Claims / Bonds	
16	Assignments	
17	Notice of Final Payment	
18	Audit Reports	
19	Liquidated Damages	
20	Close Out Documentation	



**WRTA
Responsibility Determination Form**

IFB / RFP No: _____

Vendor: _____ **Date:** _____

For each of the areas described below, check that the appropriate research has been accomplished and provide a short description of the research and the results.

		Acceptable		Comment
		Yes	No	
1.	Appropriate Financial, Equipment, Facility and Personnel.			
2.	Ability to meet the delivery schedule.			
3.	Satisfactory period of performance.			
4.	Satisfactory Record of Integrity, not on Excluded Parties Listing System			
5.	Receipt of all necessary data from supplier.			



**WRTA
Method of Procurement
Decision Matrix Form**

To best determine which method of procurement is suitable, classify your situation by checking off the appropriate boxes below. All elements must apply to use that method.

Micro-Purchase	
Amount <\$10,000	<input type="checkbox"/>
Multiple Sources	<input type="checkbox"/>
Small Purchase	
Amount >\$10,000, <\$250,000 (note OM-18-18 increase to \$250,000 except when Buy America applies, in which case the preexisting \$150,000 still applies)	<input type="checkbox"/>
Multiple sources available	<input type="checkbox"/>
Not an emergency purchase	<input type="checkbox"/>
Sole Source	
OEM or custom item	<input type="checkbox"/>
Only one source available	<input type="checkbox"/>
Approved by FTA-Sole Source	<input type="checkbox"/>
Public exigency issue / emergency	<input type="checkbox"/>
Competition is inadequate after public solicitation	<input type="checkbox"/>
Emergency Procurement (subset of Sole Source)	
There is a health & safety issue that prohibits delay	<input type="checkbox"/>
Sealed Bid (IFB)	
Complete & adequate specs or purchase description	<input type="checkbox"/>
Two or more responsible bidders willing to compete	<input type="checkbox"/>
Selection can be made on basis of price	<input type="checkbox"/>
Procurement suitable for firm, fixed price	<input type="checkbox"/>
No discussion with bidders needed after receipt of offers	<input type="checkbox"/>
Competitive Proposals (RFP)	
Complete specifications not feasible	<input type="checkbox"/>
Bidder input needed for specification	<input type="checkbox"/>
Two or more responsible bidders willing to compete	<input type="checkbox"/>
Discussion needed with bidders after receipt of proposals, prior to award	<input type="checkbox"/>
Fixes price can be set after discussions	<input type="checkbox"/>
Time and Materials Contract (subset of RFP)	
Fixed price cannot be set for work	<input type="checkbox"/>
Complete extent of work unknown, whether time, or material use or both	<input type="checkbox"/>
Best Value	
Price and qualitative consideration Greatest value to WRTA	<input type="checkbox"/>



**WRTA
Bid Checklist Form**

		Yes	No
1.	Price is firm, fixed and definite		
2.	Bid is responsive to requirements of the solicitation		
3.	Exceptions taken to any material term or condition of the solicitation		
4.	Bid is ambiguous		
5.	All amendments to solicitation acknowledged		
6.	Bid signed		
7.	All material representations, bonds, guarantees and certifications completed		
8.	All required information submitted		
9.	Bid is not defective		



**WRTA
Noncompetitive Procurement Justification Form**

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

Check One:

- The item is available only from a single source (sole source justification is attached).
- The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation (documented emergency condition is attached).
- FTA authorizes noncompetitive negotiations (letter of authorization is attached).
- After solicitation of a number of sources, competition is determined inadequate (record of source contacts is attached).

Comments:

_____ Cost Analysis is attached.

Project Manager Signature: _____

Date: _____



Independent Cost Estimate

Purpose: To develop a basis to determine a contract cost or price is reasonable, and to establish an independent cost estimate **before** quotes, bids, or proposals are received.

Type of goods or service to be procured: _____

Method used to establish Independent Cost Estimate (check one or more):

_____ Examine history of similar procurement(s)

_____ Examine current price list

_____ Examine current catalog/website

_____ Other (describe)

Independent Cost Estimate Amount: \$ _____

For each method used to establish the independent cost estimate, attach written supporting documentation (e.g., hand-written notes, e-mails, published price lists).

Project Manager Signature: _____

Date: _____



Cost and Price Analysis Form

Purpose: To determine that a cost or price of procurement is fair and reasonable and to document this determination.

Type of goods or service to be procured: _____

Independent Cost Estimate Amount: \$ _____

Method used in Cost/Price Analysis (check one or more):

_____ Compare bids, proposals or quotes received against each other

_____ Compare bids, proposals or quotes received with the Independent Cost Estimate

_____ Found reasonable on recent purchase

_____ Obtained from current price list

_____ Obtained from current catalog / website

_____ Other (describe)

For each method used to analyze cost or price, attach written supporting documentation (e.g., hand-written notes, e-mails).

Project Manager Signature: _____

Date: _____



**WRTA
Disclosure Statement**

The U.S. Department of Transportation Federal Transit Administration Master Agreement, Section 3a(1) prohibits the recipient’s employees, officers, board members or agents from participating in the selection, award, or administration of a third party contract or subagreement supported by Federal funds if a real or apparent conflict of interest would be involved. Such a conflict would arise when any of the following parties has a financial or other interest in the entity selected for award:

1. an employee, officer, board member or agent;
2. any member of his or her immediate family;
3. his or her partner;
4. an organization that employs or intends to employ any of the above.

It is the responsibility of the officers and employees of the WRTA, upon acquiring interests which conflict or might appear to conflict with the interests of the Federal Transit Administration and / or the WRTA, to bring them forth immediately for resolution.

I, the undersigned employee of the WRTA or its operating contractors, acknowledge receipt, understanding and acceptance of the WRTA Code of Ethics and this Disclosure Statement, and certify that (1) I have not solicited or received any kickbacks or gratuities, and (2) I have no financial interest in any supplier with whom the WRTA does business. If any real or perceived conflict should arise in the discharge of my duties, I will report such conflict immediately to the Chairman of the Advisory Board in writing.

Printed Name: _____ Title: _____

Signature: _____ Date: _____

This statement will be renewed on an annual basis.



Exhibit 6
APPLICABILITY OF THIRD-PARTY CONTRACT CLAUSES
 (excluding micro-purchases, except for construction contracts over \$2,000)

CLAUSE	TYPE OF PROCUREMENT				
	Professional Services/A&E	Operations/ Management/ Subrecipients	Rolling Stock Purchase	Construction	Materials & Supplies
No Federal government obligations to third parties by use of a disclaimer	All	All	All	All	All
Program fraud and false or fraudulent statements and related acts	All	All	All	All	All
Access to Records	All	All	All	All	All
Federal changes	All	All	All	All	All
Civil Rights (EEO, Title VI & ADA)	All	All	All	All	All
Incorporation of FTA Terms	All	All	All	All	All
Energy Conservation	All	All	All	All	All
Termination Provisions (not required of states)	>\$10,000	>\$10,000	>\$10,000	>\$10,000	>\$10,000
Debarment and Suspension	>\$25,000	>\$25,000	>\$25,000	>\$25,000	>\$25,000
Buy America			>\$150,000	>\$150,000	>\$150,000 (for steel, iron, manufactured products)
Provisions for resolution of disputes, breaches, or other litigation	>\$150,000 (see Note)	>\$150,000 (see Note)	>\$150,000 (see Note)	>\$150,000 (see Note)	>\$150,000 (see Note)
Lobbying	>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000
Clean Air	>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000
Clean Water	>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000
Cargo Preference			Involving property that may be transported by ocean vessel	Involving property that may be transported by ocean vessel	Involving property that may be transported by ocean vessel
Fly America	Involving foreign transport or travel by air	Involving foreign transport or travel by air	Involving foreign transport or travel by air	Involving foreign transport or travel by air	Involving foreign transport or travel by air

Exhibit 6
APPLICABILITY OF THIRD-PARTY CONTRACT CLAUSES
(excluding micro-purchases, except for construction contracts over \$2,000)

CLAUSE	TYPE OF PROCUREMENT				
	Professional Services/A&E	Operations/ Management/ Subrecipients	Rolling Stock Purchase	Construction	Materials & Supplies
<i>Davis Bacon Act</i>				>\$2,000 (including ferry vessels)	
<i>Copeland Anti-Kickback Act Section 1 Section 2</i>				All >\$2,000 (including ferry vessels)	
<i>Contract Work Hours & Safety Standards Act</i>		>\$100,000	>\$100,000	>\$100,000 (including ferry vessels)	
<i>Bonding (not required of states)</i>				>\$100,000 (including ferry vessels)	
<i>Seismic Safety</i>	A&E for new buildings & additions			New buildings & additions	
<i>Transit Employee Protective Arrangements</i>		Transit operations funded with Section 5307, 5309, 5311 or 5316 funds			
<i>Charter Service Operations</i>		All			
<i>School Bus Operations</i>		All			
<i>Drug and Alcohol Testing</i>		Transit operations funded with Section 5307, 5309 or 5311 funds			
<i>Patent Rights</i>	Research & development				
<i>Rights in Data and Copyrights requirements</i>	Research & development				

Exhibit 6
APPLICABILITY OF THIRD-PARTY CONTRACT CLAUSES
(excluding micro-purchases, except for construction contracts over \$2,000)

CLAUSE	TYPE OF PROCUREMENT				
	Professional Services/A&E	Operations/ Management/ Subrecipients	Rolling Stock Purchase	Construction	Materials & Supplies
Special DOL EEO clause for construction projects				>\$10,000	
Disadvantaged Business Enterprises (DBEs)	All	All	All	All	All
Prompt Payment	All if threshold for DBE program met	All if threshold for DBE program met	All if threshold for DBE program met	All if threshold for DBE program met	All if threshold for DBE program met
Recycled Products		Contracts for items designated by EPA, when procuring \$10,000 or more per year		Contracts for items designated by EPA, when procuring \$10,000 or more per year	Contracts for items designated by EPA, when procuring \$10,000 or more per year
ADA Access	A&E	All	All	All	
Special Notification Requirements for States	Limited to states	Limited to states	Limited to states	Limited to states	Limited to states

Exhibit 6.1
REQUIRED THIRD PARTY CONTRACT CLAUSES
(excluding micro-purchases, except for construction contracts over \$2,000)

REQUIREMENT	COMMENTS	MASTER AGREEMENT REFERENCE***
All FTA-Assisted Third Party Contracts and Subcontracts		
No Federal government obligations to third parties by use of a disclaimer		§ 3.i
Program fraud and false or fraudulent statements and related acts		§ 4.3.f
Access to Records		§ 9.c
Federal changes		§ 3.i
Civil Rights (EEO, Title VI & ADA)		§ 12.c, e, and h.
Incorporation of FTA Terms	Per FTA C. 4220.1F	
Energy Conservation		§ 26.j
Awards Exceeding \$10,000		
Termination provisions	49 CFR Part 18 Not required of states	§ 16.d(2)12
Awards Exceeding \$25,000		
Debarment and Suspension	2 CFR Parts 180 and 1200	§ 4.b
Awards Exceeding the Simplified Acquisition Threshold (\$150,000)		
Administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.		
Buy America	<i>When tangible property or construction will be acquired</i>	§ 15.a
Provisions for resolution of disputes, breaches, or other litigation		§ 39
Awards Exceeding \$100,000 by Statute		
Lobbying		§ 3.d
Clean Air		§ 16.d(7)7.n
Clean Water		§ 16.d(7)
Transport of Property or Persons		
Cargo Preference	<i>When acquiring property suitable for shipment by ocean vessel</i>	§ 15.b
Fly America	<i>When property or persons transported by air between U.S. and foreign destinations, or between foreign locations</i>	§15.c

Exhibit 6.1
REQUIRED THIRD PARTY CONTRACT CLAUSES
(excluding micro-purchases, except for construction contracts over \$2,000)

REQUIREMENT	COMMENTS	MASTER AGREEMENT REFERENCE***
Construction Activities		
<i>Davis Bacon Act</i>	<i>Except for contracts <\$2,000 or third party contracts for supplies, materials, or articles ordinarily available on the open market</i>	§ 16.d(4)
<i>Copeland Anti-Kickback Act Section 1 Section 2</i>	<i>All Contracts >\$2,000</i>	§ 24.a(3)
<i>Contract Work Hours & Safety Standards Act</i>	<i>Contracts >\$100,000</i>	§ 16.d(5)
<i>Bonding for construction activities exceeding \$100,000</i>	<i>5% bid guarantee; 100% performance bond; and Payment bond equal to: • 50% for contracts < \$1 M • 40% for contracts > \$1 M, but < \$5 M • \$2.5 M for contracts > \$5 M Not required of states</i>	§ 16.n(1)
<i>Seismic Safety</i>	<i>Contracts for construction of new buildings or additions to existing buildings</i>	§ 23.b
<i>Special DOL EEO Clause</i>	<i>Contracts >\$10,000</i>	§ 12.d(3)
Nonconstruction Activities		
<i>Nonconstruction Employee Protection (Contract Work Hours and Safety Standards Act)</i>	<i>Applicable to all turnkey, rolling stock and operational contracts (excluding contracts for transportation services) > \$100,000</i>	§ 28.b
Transit Operations		
<i>Transit Employee Protective Arrangements</i>	<i>Applies to Section 5307, 5309, 5311 and 5316 projects</i>	§ 24.d28.d
<i>Charter Service Operations</i>		§ 2832
<i>School Bus Operations</i>		§ 29
<i>Drug and Alcohol Testing</i>	<i>Safety sensitive functions. Applies to Section 5307, 5309 and 5311 projects</i>	§40.b
Planning, Research, Development, and Documentation Projects		
<i>Patent Rights</i>		§ 17
<i>Rights in Data and Copyrights</i>		§ 1820
Miscellaneous Special Requirements		
<i>Disadvantaged Business Enterprises (DBEs)</i>	<i>Contracts awarded on the basis of a bid or proposal offering to use DBEs</i>	§ 12.e3.d

Exhibit 6.1
REQUIRED THIRD PARTY CONTRACT CLAUSES
(excluding micro-purchases, except for construction contracts over \$2,000)

REQUIREMENT	COMMENTS	MASTER AGREEMENT REFERENCE***
<i>Prompt Payment and Return of Retainage</i>	<i>Per 49 CFR Part 26, if recipient meets the threshold for a DBE program</i>	<i>§ 12.e</i>
<i>Recycled Products</i>	<i>Contracts for items designated by EPA, when procuring \$10,000 or more per year</i>	<i>§ 16.d(10)</i>
<i>ADA Access</i>	<i>Contracts for rolling stock or facilities construction/ renovation</i>	<i>§ 12.h3.g</i>
<i>Assignability Clause</i>	<i>Piggyback procurements</i>	<i>§ 16.a(3)</i>
State Requirements		
<i>Special Notification Requirements for States</i>		<i>§ 37</i>



**WRTA
Sole Source Cost Analysis Form**

Prior to proceeding with sole source procurements, including contract modifications, the requesting department must perform a cost analysis in order to demonstrate the proposed price is fair and reasonable. The cost analysis should examine the elements of cost (labor hours, material, overhead, and profit) for professional consulting and architectural and engineering type contracts.

Please note: It is not sufficient to list the last price paid and the percentage change of the newly quoted price. Actual analysis of the figures should be evident to explain why any increase or decrease in quoted costs is reasonable. All of the following elements must be completed for each proposed sole source procurement.

1. Verification of cost or pricing data and evaluation of cost elements:

2. Comparison of cost proposed with independent or previous cost estimate, market indices, and other factors:

3. Evaluation of supplier's costs first hand and assessment for completeness and reasonableness, including evidence and rationale for determination.



**WRTA
Award Recommendation & Justification Form**

Department / Contractor: _____

Procurement Number: _____
(RFP / Bid #)

Subject: _____

Report Date: _____ Number Bids / RFP's Mailed: _____ Number of Bids / RFP's Received: _____

Recommendation:

Justification:

Approvals:

Purchasing Coordinator

Administrator



**Price / Rate Quotation Form
For Micro-Purchases and Small Purchases**

Date of Request:		Requested By:																						
Method of Procurement (check one):		Micro Purchase <input type="checkbox"/>	Small Purchase <input type="checkbox"/>																					
Description:		Justification:																						
<p>Fair & Reasonable Price Determination For Purchases Less than \$10,000 (Attach quote from vendor)</p> <p>I hereby determine the price to be fair and reasonable based on at least one of the following:</p> <table style="width:100%; border: none;"> <tr> <td style="width: 50%; border-right: 1px solid black; vertical-align: top;"> <input type="checkbox"/> Found reasonable on recent purchase <input type="checkbox"/> Obtained from current catalog <input type="checkbox"/> Personal knowledge of item procured <input type="checkbox"/> Commercial market sales prices from advertisements </td> <td style="width: 50%; vertical-align: top;"> <input type="checkbox"/> Obtained from current price list <input type="checkbox"/> Similar Item in related industry <input type="checkbox"/> Regulate rate (utility) <input type="checkbox"/> Other(describe) </td> </tr> </table>					<input type="checkbox"/> Found reasonable on recent purchase <input type="checkbox"/> Obtained from current catalog <input type="checkbox"/> Personal knowledge of item procured <input type="checkbox"/> Commercial market sales prices from advertisements	<input type="checkbox"/> Obtained from current price list <input type="checkbox"/> Similar Item in related industry <input type="checkbox"/> Regulate rate (utility) <input type="checkbox"/> Other(describe)																		
<input type="checkbox"/> Found reasonable on recent purchase <input type="checkbox"/> Obtained from current catalog <input type="checkbox"/> Personal knowledge of item procured <input type="checkbox"/> Commercial market sales prices from advertisements	<input type="checkbox"/> Obtained from current price list <input type="checkbox"/> Similar Item in related industry <input type="checkbox"/> Regulate rate (utility) <input type="checkbox"/> Other(describe)																							
<p>Price Quotations For Purchases Greater Than \$10,000 and Less Than \$150,000 (Attach at least three quotes)</p> <table style="width:100%; border: none;"> <thead> <tr> <th style="text-align: left;"><u>Company Name</u></th> <th style="text-align: left;"><u>Address</u></th> <th style="text-align: left;"><u>Phone #</u></th> <th style="text-align: left;"><u>Price</u></th> <th style="text-align: left;"><u>DBE</u></th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> <td> </td> <td style="text-align: right;">Yes <input type="checkbox"/> No <input type="checkbox"/></td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> <td style="text-align: right;">Yes <input type="checkbox"/> No <input type="checkbox"/></td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> <td style="text-align: right;">Yes <input type="checkbox"/> No <input type="checkbox"/></td> </tr> </tbody> </table>					<u>Company Name</u>	<u>Address</u>	<u>Phone #</u>	<u>Price</u>	<u>DBE</u>					Yes <input type="checkbox"/> No <input type="checkbox"/>					Yes <input type="checkbox"/> No <input type="checkbox"/>					Yes <input type="checkbox"/> No <input type="checkbox"/>
<u>Company Name</u>	<u>Address</u>	<u>Phone #</u>	<u>Price</u>	<u>DBE</u>																				
				Yes <input type="checkbox"/> No <input type="checkbox"/>																				
				Yes <input type="checkbox"/> No <input type="checkbox"/>																				
				Yes <input type="checkbox"/> No <input type="checkbox"/>																				
<p>Approvals (Signature Required)</p> <table style="width:100%; border: none;"> <tr> <td style="width: 60%;">General Manager:</td> <td style="width: 40%;">Date:</td> </tr> <tr> <td>Assistant Administrator:</td> <td>Date:</td> </tr> <tr> <td>Administrator:</td> <td>Date:</td> </tr> </table>					General Manager:	Date:	Assistant Administrator:	Date:	Administrator:	Date:														
General Manager:	Date:																							
Assistant Administrator:	Date:																							
Administrator:	Date:																							

WRTA
BUY AMERICA REQUIREMENTS
49 U.S.C. 5323(j)
49 CFR Part 661

Buy America - The contractor agrees to comply with 49 U.S.C. 5323(j) and 49 C.F.R. Part 661, which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 C.F.R. 661.7, and include final assembly in the United States for 15 passenger vans and 15 passenger wagons produced by Chrysler Corporation, and microcomputer equipment and software. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C) and 49 C.F.R. 661.11. Rolling stock must be assembled in the United States and have a 60 percent (FY2017 & prior); 65 percent (FY2018-2019); 70 percent (FY2020 and beyond) - domestic content based on scheduled delivery date of the first production vehicle.

A bidder or offeror must submit to the FTA recipient the appropriate Buy America certification (below) with all bids or offers on FTA-funded contracts, except those subject to a general waiver. Bids or offers that are not accompanied by a completed Buy America certification must be rejected as nonresponsive. This requirement does not apply to lower tier subcontractors.

Certification requirement for procurement of steel, iron, or manufactured products.

Certificate of Compliance with 49 U.S.C. 5323(j)(1)

The bidder or offeror hereby certifies that it will meet the requirements of 49 U.S.C. 5323(j)(1) and the applicable regulations in 49 CFR Part 661.5.

Date _____

Signature _____

Company Name _____

Title _____

Certificate of Non-Compliance with 49 U.S.C. 5323(j)(1)

The bidder or offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j)(1) and 49 C.F.R. 661.5, but it may qualify for an exception pursuant to 49 U.S.C. 5323(j)(2)(A), 5323(j)(2)(B), or 5323(j)(2)(D), and 49 C.F.R. 661.7.

Date _____

Signature _____

Company Name _____

Title _____

Certification requirement for procurement of buses, other rolling stock and associated equipment.

Certificate of Compliance with 49 U.S.C. 5323(j)(2)(C).

The bidder or offeror hereby certifies that it will comply with the requirements of 49 U.S.C. 5323(j)(2)(C) and the regulations at 49 C.F.R. Part 661.11.

Date _____

Signature _____

Company Name _____

Title _____

Certificate of Non-Compliance with 49 U.S.C. 5323(j)(2)(C)

The bidder or offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j)(2)(C) and 49 C.F.R. 661.11, but may qualify for an exception pursuant to 49 U.S.C. 5323(j)(2)(A), 5323(j)(2)(B), or 5323(j)(2)(D), and 49 C.F.R. 661.7.

Date _____

Signature _____

Company Name _____

Title _____

**WRTA
LOBBYING**

**31 U.S.C. 1352
49 CFR Part 19
49 CFR Part 20**

APPENDIX A, 49 CFR PART 20--CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

(To be submitted with each bid or offer exceeding \$100,000)

The undersigned [Contractor] certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form--LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, *et seq.*)]

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

[Note: Pursuant to 31 U.S.C. § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.]

The Contractor certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. A 3801, *et seq.*, apply to this certification and disclosure, if any.

Firm Name _____

Signature of Authorized Official _____

Name and Title of Authorized Official _____

Date _____

CONTRACTOR INFORMATION FORM

BID/RFQ/RFP # _____

The completion of this form(s) is a requirement of this bid. A completed form is required for each contractor who submits a Bid/RFP/RFQ in response to this solicitation and for **each** of the bidders' subcontractors. Copy and attach additional sheets as necessary. Please provide the following information:

Name of Contractor: _____

Prime Contractor _____ Subcontractor _____

Contractor Tax ID#: ____ - _____

Contractor's License #: _____ Type: _____ (as applicable)

Contractor Does Business As: Individual Partnership
Corporation

Government Fiduciary

Other _____

Contractor is a: Resident Non-Resident of Massachusetts

1) Are you or your firm authorized to business in Massachusetts? Yes No

2) Are you or your firm a certified DBE*? Yes No

 If yes, Certified by the Commonwealth of Massachusetts? Yes No

3) Is this a local business? Yes No

4) This firm has been in continuous business under the present name for ____ years.

Annual Gross Receipts:

_____ Under \$500,000 _____ \$500,000 - \$999,999 _____ \$1,000,000 -
\$1,999,999

_____ \$2,000,000 - \$4,999,999 _____ \$5,000,000 -
\$9,999,999

_____ \$10,000,000 - \$14,999,999 _____ \$15,000,000 -
\$24,999,999

**Disadvantaged Business Enterprise or DBE means a for-profit small business concern-*

(1) that is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals; and

(2) Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

13. GOVERNMENT-WIDE DEBARMENT AND SUSPENSION

Applies to All Contracts >\$25,000

2 C.F.R. part 180

2 C.F.R part 1200

2 C.F.R. § 200.213

2 C.F.R. part 200 Appendix II (I)

Executive Order 12549

Executive Order 12689

Debarment, Suspension, Ineligibility and Voluntary Exclusion

The Contractor shall comply and facilitate compliance with U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 C.F.R. part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 C.F.R. part 180. These provisions apply to each contract at any tier of \$25,000 or more, and to each contract at any tier for a federally required audit (irrespective of the contract amount), and to each contract at any tier that must be approved by an FTA official irrespective of the contract amount. As such, the Contractor shall verify that its principals, affiliates, and subcontractors are eligible to participate in this federally funded contract and are not presently declared by any Federal department or agency to be:

- a) Debarred from participation in any federally assisted Award;
- b) Suspended from participation in any federally assisted Award;
- c) Proposed for debarment from participation in any federally assisted Award;
- d) Declared ineligible to participate in any federally assisted Award;
- e) Voluntarily excluded from participation in any federally assisted Award; or
- f) Disqualified from participation in any federally assisted Award.

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by the AGENCY. If it is later determined by the AGENCY that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to the AGENCY, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. part 180, subpart C, as supplemented by 2 C.F.R. part 1200, while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

Signature of Contractor's Authorized Official

Name and Title of Contractor's Authorized Official

Date

Appendix 1

WRITTEN PROTEST PROCEDURES

The following Bid Protest Procedures apply to Federal Transit Administration (FTA) assisted procurements that are competitively solicited. Interested parties must adhere to the following procedures. A protest will be processed in the time frames and structure specified below. In addition, the WRTA will disclose information regarding protests to the Federal Transit Administration in writing.

A. PRIOR TO OFFER OPENING

1. Protests concerning a procurement (by a prime contractor or an adversely affected subcontractor) must be in writing and received by WRTA not less than five (5) working days before offer opening unless a different deadline is established in the procurement documents.
2. Upon receipt of that protest, the Administrator will determine if the offer opening should be postponed. If offer opening is postponed, WRTA will notify all prime contractors and subcontractors who have been furnished a copy of the specifications that a protest has been filed and that offer opening is postponed until WRTA has issued its decision. Appropriate addenda will be issued rescheduling offer opening.
3. Any protest to WRTA may be withdrawn at any time before WRTA has issued its decision.
4. WRTA will respond within three (3) working days of receiving the protest, at least generally, to each material issue raised in the Protest. If the matter requires further evaluation, the Administrator will notify the protesting party in writing (by facsimile and U.S. Mail) of the extended review period. The Administrator's decision on any protest will be in writing and is final.

B. AFTER OFFER OPENING

1. Protests received after an offer opening will be considered only if it concerns an issue, procedure, or other matter that could not have been protested by an offeror prior to the opening. The protest must be in writing and be received by WRTA at least three (3) working days before the conditional award of a contract by the WRTA.
2. Upon receipt of the protest, the Administrator will immediately determine if the award of the contract should be postponed. If it is postponed, WRTA will notify all offerors that a protest has been filed and that award of the contract is postponed until WRTA has issued its decision.
3. A protest to WRTA may be withdrawn at any time before WRTA has issued its decision.
4. WRTA will respond within three (3) working days of receiving the protest, at least generally, to each material issue raised in the Protest. If the matter requires further evaluation, the Administrator will notify the protesting party in writing (by facsimile and U.S. Mail) of the extended review period. The Administrator's decision on any protest will be in writing and is final.

C. AFTER AWARD

1. Protests received after an award has been made will be considered only if it concerns an issue, procedure or other matter that could not have been protested by an offeror after the opening. The protest must be in writing and received by the WRTA three (3) working days before the execution of the resulting contract.
2. Upon receipt of the protest, the Administrator will immediately determine if the execution of the contract should be postponed. If it is postponed, WRTA will notify all offerors that a protest has been filed and that execution of the contract is postponed until WRTA has issued its decision.
3. A protest to WRTA may be withdrawn at any time before WRTA has issued its decision.
4. WRTA will respond within three (3) working days of receiving the protest, at least generally, to each material issue raised in the Protest. If the matter requires further evaluation, the Administrator will notify the protesting party in writing (by facsimile and U.S. Mail) of the extended review period. The Administrator's decision on any protest will be in writing and is final.

D. PROTESTS TO THE FEDERAL TRANSIT ADMINISTRATION

1. Under certain circumstances, an interested party may protest to FTA
2. An appeal to FTA must be received by the cognizant FTA regional office within five (5) working days after the WRTA renders a final decision or five (5) working days after the protestor knows or has reason to know that the WRTA has failed to render a final decision on a protest.
3. Reviews of protests by FTA will be limited to: (1) WRTA's failure to have or follow these written protest procedures, or the WRTA's failure to review a complaint or protest; or (2) violations of Federal law or regulation.

E. APPEALS

1. Except as provided above, there are no further administrative appeals available. In certain circumstances judicial remedies may be available to aggrieved parties.

The WRTA will consider all written protests made within the timelines stated in this policy. Protest submissions should be concise, logically arranged, clearly state the grounds for the protest, and must include at least the following information:

- Name, address, and telephone number of protestor.
- Solicitation or contract name and/or number.
- A detailed statement of the legal and factual grounds for the protest, including copies of all relevant documents or information.
- A statement of relief requested.

Protests are to be filed by certified mail, return receipt requested or by personal deliver by 4:30 pm on or before the due date at:

Administrator
Worcester Regional Transit Authority
60 Foster Street
Worcester, MA 01608

If protests are filed by personal delivery, the protestor must obtain a time-stamped copy of the protest from the WRTA's Administration Office as proof of the date and time of the filing of the protest. It is the Protester's sole responsibility to provide said copy at the time of filing.

Contract Administration

The CFO is responsible for performing WRTA contract administration duties, including the maintenance of an "official" contract file. The "official" contract file includes all correspondence relating to the administration of the contract so as to:

- verify the contractor's adherence to the terms of the contract, and
- demonstrate that the WRTA is managing its contracts effectively, including the resolution of all contractual/performance and administrative issues that arise during a contract's effective period.

Items the WRTA contract files may include, but not limited to:

- The executed contract and notice of award;
- Performance and payment bonds, bond-related documentation, and correspondence with any sureties;
- Contract-required insurance documentation;
- Post-award (pre-performance) correspondence from or to the contractor or other Governmental agencies;
- Notice to proceed;
- Approvals or disapprovals of contract submittals required by the contract and requests for waivers or deviations from contractual requirements;
- Modifications/changes to the contracts, including the rationale for the change, change orders issued, and documentation reflecting any time and/ or increases to or decreases from the contract price as a result of those modifications;
- Documentation regarding settlement of claims and disputes including, as appropriate, results of audit and legal reviews of the claims and approval by the proper authority (i.e., city council, board of directors, executive director) of the settlement amount;
- Documentation regarding stop work and suspension of work orders and termination actions (convenience as well as default); and
- Documentation relating to contract close-out.

The WRTA shall maintain its contracts in accordance with FAR part 42 at section 42.3, to accommodate the procurement (i.e. supply, construction, fixed-price, etc.)

The WRTA will also maintain documentation of routine and discrete interactions with Subrecipients and Third-Parties as such interactions relate to the WRTA's contractual relationships with such parties.

Appendix 2

Subrecipient Agreement Procedures

The WRTA must enter into a written agreement with each of its subrecipients. The written agreement must include applicable Federal requirements required by 2 CFR part 200, and require the subrecipient to undertake responsibilities for the project usually performed by the recipient.

The subrecipient is required to incorporate, the federally required contract clauses that the recipient is required to incorporate in agreements, reference some, but not all, of the basic Federal requirements; and WRTA will pass through FTA requirements to subrecipients by incorporating the FTA Master Agreement by reference.

The WRTA must ensure that the Lobbying Certification (over \$100,000) and Government Debarment and Suspension documentation (over \$25,000) are signed and part of the procurement file.

Recipients must ensure that every subaward is clearly identified to the subrecipient as a subaward and includes the following information at the time of the subaward and if any of these data elements change, include the changes in subsequent subaward modification.

The following elements must be included in the subrecipient agreement:
2 CFR 200.331 Requirements for pass-through entities.

“All pass-through entities must:

(a) Ensure that every subaward is clearly identified to the subrecipient as a subaward and includes the following information at the time of the subaward and if any of these data elements change, include the changes in subsequent subaward modification. When some of this information is not available, the pass-through entity must provide the best information available to describe the Federal award and subaward.

Required information includes:

(1) Federal Award Identification.

- (i) Subrecipient name (which must match the name associated with its unique entity identifier);
- (ii) Subrecipient's unique entity identifier;
- (iii) Federal Award Identification Number (FAIN);
- (iv) Federal Award Date (see §200.39 Federal award date) of award to the recipient by the Federal agency;
- (v) Subaward Period of Performance Start and End Date;
- (vi) Amount of Federal Funds Obligated by this action by the pass-through entity to the subrecipient;
- (vii) Total Amount of Federal Funds Obligated to the subrecipient by the pass-through entity including the current obligation;
- (viii) Total Amount of the Federal Award committed to the subrecipient by the passthrough entity;
- (ix) Federal award project description, as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA);

- (x) Name of Federal awarding agency, pass-through entity, and contact information for awarding official of the Pass-through entity;
 - (xi) CFDA Number and Name; the pass-through entity must identify the dollar amount made available under each Federal award and the CFDA number at time of disbursement;
 - (xii) Identification of whether the award is R&D; and
 - (xiii) Indirect cost rate for the Federal award (including if the de minimis rate is charged per §200.414 Indirect (F&A) costs).

(2) All requirements imposed by the pass-through entity on the subrecipient so that the Federal award is used in accordance with Federal statutes, regulations and the terms and conditions of the Federal award;

(3) Any additional requirements that the pass-through entity imposes on the subrecipient in order for the pass-through entity to meet its own responsibility to the Federal awarding agency including identification of any required financial and performance reports;

(4) An approved federally recognized indirect cost rate negotiated between the subrecipient and the Federal Government or, if no such rate exists, either a rate negotiated between the pass-through entity and the subrecipient (in compliance with this part), or a de minimis indirect cost rate as defined in §200.414 Indirect (F&A) costs, paragraph (f);

(5) A requirement that the subrecipient permit the pass-through entity and auditors to have access to the subrecipient's records and financial statements as necessary for the pass-through entity to meet the requirements of this part; and

(6) Appropriate terms and conditions concerning closeout of the subaward.”

FSRS Reporting:

FFATA requires recipients to report subaward information to FSRS by the end of the month following the month in which the subaward was made.

All direct recipients of FTA awards, award amendments and cooperative agreements over \$25,000 awarded on or after October 1, 2010, are subject to the requirement of FFATA, which requires recipients to report subaward information to FSRS at www.FSRS.gov by the end of the month after the month in which they make any subaward under the award. The reporting requirement does not include third party contract data at this time.

Recipients must report the information about each first tier subaward over \$25,000 (funds passed through to other public agencies, private nonprofit organizations or, where eligible as subrecipients, private providers of transportation) by the end of the month following the month the direct recipient makes any subaward or obligation (not the month after FTA awarded funds to the recipient). For example, if FTA awarded the fund to the recipient in November and the recipient signed subrecipient agreements in February, the recipient has until March 31 to report the subaward into FSRS. Once the recipient submits an initial report, it can revise it later to add

additional subawards as they are made, or to change data previously submitted to reflect adjustments in subawards.

FTA Circular 5010.1E, Chapter III, Section 3.f Federal Funding Accountability and Transparency Act (FFATA) Subaward and Executive Compensation Reporting.

Recipients awarded new federal assistance greater than or equal to \$25,000 as of October 1, 2010, are subject to FFATA subaward and executive compensation reporting requirements as outlined in the Office of Management and Budget's guidance issued August 27, 2010. These recipients must file an FFATA subaward report by the end of the month following the month in which the recipient awards any subaward greater than or equal to \$25,000. Additionally, all recipients must report the names and compensation of their five most highly compensated officers, and first-tier subrecipients must report the names and compensation of their five most highly compensated officers, if in the preceding fiscal year they received 80 percent or more of their annual gross revenues in federal Awards; and \$25,000 or more in annual gross revenues from federal Awards; and the public does not have access to this information about the compensation of the senior executives of those recipients or subrecipients through periodic reports filed under Section 13(a) or 15(d) of the Securities Exchange Act of 1934, 15 U.S.C. § 78m(a), § 78o(d), or section 6104 of the Internal Revenue Code of 1986. Instructions and the FFATA Subaward Reporting System (FSRS) can be found at: www.fsr.gov."

References (consulted for 09/07/18)

American Public Transportation Association. Procurement Handbook: A Guide for Transit Industry Executives. October 2014.

https://www.apta.com/resources/bookstore/Documents/APTA_Procurement.pdf

Code of Federal Regulations. Title 2, Subtitle A, Chapter II, Part 200: Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

<https://www.ecfr.gov/cgi-bin/text-idx?SID=dcca2aac4e26c2972b3e6d87c25d0a79&mc=true&node=pt2.1.200&rgn=div5>

Federal Transit Administration. Circular 4220.1F, Revision 4 through March 18, 2013

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

Office of Management and Budget. OM-18-18, “Implementing Statutory Changes to the Micro-Purchase and the Simplified Acquisition Thresholds for Financial Assistance. <https://www.whitehouse.gov/wp-content/uploads/2018/06/M-18-18.pdf> .

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* When consulting FTA Circular 4220.1F, recipients should be mindful that there are statutory and regulatory requirements that have superseded the current version of the circular. In that case, the federal statute or regulation must be consulted. If a recipient is unsure of the applicability of FTA Circular 4220.1F in light of the Uniform Guidance (a/k/a “Super Circular”), 2 C.F.R. part 200, or the FAST Act amendments to Title 49 United States Code, Chapter 53, please contact your FTA regional office for further guidance.

