
Policies & Procedures for FTA Related Procurements

City of La Crosse
Municipal Transit Utility

Adopted by
La Crosse Municipal Transit Utility Board
????? 2019

TABLE OF CONTENTS

Written Record of Procurement History	4
<i>Procurement Documentation File</i>	4
<i>Contract Administration File</i>	5
Awards to Responsible Contractors	5
Methods of Solicitation and Selection	5
<i>Micro-Purchases</i>	6
<i>Small Purchases</i>	6
<i>Sealed Bid/Invitation for Bid (IFB)</i>	6
<i>Competitive Proposal / Request for Proposals (RFP)</i>	7
<i>Architectural and Engineering Services</i>	7
<i>National Intelligent Transportation Systems Architecture and Standards</i>	8
<i>Noncompetitive Proposals (Sole Source)</i>	8
<i>Best Value</i>	8
<i>The Traditional Construction Process – Design/Bid/Build</i>	9
Protest Procedures	9
Costing and Pricing	10
<i>Independent Cost Estimates</i>	10
<i>Federal Cost Principles</i>	11
<i>Cost Plus Percentage of Cost Prohibited</i>	11
Full and Open Competition	11
<i>Bonding Requirements</i>	12
<i>Brand Name or Equals</i>	13
<i>Conflict of Interest</i>	13
<i>Geographic Preferences</i>	13
<i>Written Selection Process</i>	13
<i>Pre-qualification of Bidders</i>	14
<i>Advertising and Publicizing Solicitation</i>	14
<i>Contractor Information Form</i>	14
<i>Pre-Bid and Pre-Proposal Conferences</i>	14
<i>Evaluation of Bid Alternatives</i>	14
<i>Exercise of Bid Alternatives</i>	15
Types of Contracts	15
<i>Fixed Price vs. Cost Reimbursement</i>	15
<i>Fixed Price Contracts</i>	15
<i>Cost-Reimbursement Contracts</i>	16
<i>Time and Material Contracts</i>	16
<i>Labor/Hour Contracts</i>	16
<i>Cost Plus Percentage of Cost Contracts</i>	16
<i>Out of Scope Changes</i>	16
Contract Term Limitation	16
<i>Revenue Contracts</i>	16
<i>Tag-Ons</i>	17
<i>Piggybacking</i>	17
<i>E-Commerce</i>	17

TABLE OF CONTENTS (continued)

Payments	17
<i>Advance Payments</i>	17
<i>Progress Payments</i>	17
Contract Provisions	17
<i>Liquidated Damages Provisions</i>	18
<i>A&E Services Conflicts of Interest</i>	18
<i>Flowdown of FTA Clauses</i>	18
<i>Buy America</i>	18
<i>Lobbying</i>	19

ATTACHMENTS

- 1 – WisDOT Sub Recipient Procurement Checklist
- 2 – Responsibility Determination Form
- 3 – Method of Procurement Decision Matrix Form
- 4 – Sample Bid Checklist Form
- 5 – Independent Cost Estimate and Bid Cost Factors Form
- 6 – Noncompetitive Procurement Justification Form
- 7 – Cost and Price Analysis Form
- 8 – FTA Contract Clauses Matrix Check list
- 9 – Sole Source Cost Analysis Form
- 10 – Bid Summary Form
- 11 – Award Recommendation and Justification Form
- 12 – Price Rate Quotation Form
- 13 – Buy America Certifications
- 14 – Lobbying Certification
- 15 – Suspension and Debarment Certification
- 16 – Written Protest Procedures
- 17 – City of La Crosse Purchasing Policy Resolution

Policies & Procedures for FTA Related Procurement

This document has been prepared in accordance with the Federal Transit Administration's (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 The FTA's Best Practice: Procurement Manual for procurement assistance, contract clauses and provisions.

The City of La Crosse typically receives transit capital assistance through the FTA Section 5307 and 5339 Capital Programs administered through the statewide program. This process requires WisDOT approval and involvement at various stages throughout the procurement process. Please reference the checklist of activities and approvals in Attachment 1 – Sub recipient Procurement Process Checklist.

When purchasing goods and services the Municipal Transit Utility will also follow the requirements of the City of La Crosse Purchasing Policy Resolution - Attachment 17.

Written Record of Procurement History

The City shall maintain records detailing the history of each FTA associated procurement. These records shall be placed in the master file and include:

- The rationale for the method of procurement (See - Decision Matrix - Attachment 3);
- Selection of contract type;
- Reasons for contractor selection or rejection; and
- The basis for the contract price.

Procurement documentation files

Where appropriate, the file will contain:

- Purchase request, acquisition planning information, and other pre-solicitation documents
- Evidence of availability of funds
- Rationale for the method of procurement (negotiations, formal advertising)
- List of sources solicited
- Independent cost estimate
- Description of work/scope of services
- Copies of published notices of proposed contract action
- Copy of the solicitation, all addenda, and all amendments
- Liquidated damages determination
- An abstract of each offer or quote
- Contractor's contingent fee representation and other certifications and representations
- Source selection documentation if applicable
- Contracting Officer's 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

- Purchase Requisition indicating availability of funding
- Notice to unsuccessful bidders or offers 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

Contract Administration File

Where appropriate, the file contains:

- Executed 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.

Awards to Responsible Contractors

The City 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. The debarred and suspended list will also be checked on the System for Award Management web site at www.sam.gov. A copy of the page from web site search will be included in the procurement file.

The department must complete the attached *Responsibility Determination Form* prior to the issuance of an award, (Attachment 2.) The prospective Contractor must complete and return the certification regarding debarment and suspension, (Attachment 15.)

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 less than \$5,000;
- small purchase procedures only for contract amounts less than the simplified acquisition threshold (currently \$150,000);
- sealed bids where
 - You have a complete, adequate, and realistic specification or purchase description
 - Two or more responsible bidders are willing and able to compete the procurement lends itself to a firm fixed price contract and the selection can be made primarily on the basis of price
 - 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 4220.1F, Chapter VI, page 21.
- 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 City's procurement. The Department must complete the attached *Method of Procurement Decision Matrix Form* to begin new procurement actions. The Decision Matrix will be placed in the master file, (Attachment 3).

Micro-Purchases

Procurement by micro-purchases is those purchases under \$5,000. 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. This written determination shall be placed in the Procurement file. Please use the *Price and Cost Analysis Form* (Attachment 7).

Small Purchases

Small purchase procedures are to be used if the services, supplies, or other property cost between \$5,000 and \$150,000. If small purchases procedures are used, price or rate quotations shall be obtained from at least three qualified sources prior to the issuance of an award. These price or rate quotations shall be placed in the procurement file. Please use the *Price Rate Quotation Form* (Attachment 12).

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 the department for compliance with bid specifications, responsible and responsive bidders, verification of pricing, fund availability, etc.

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.

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 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 Sheet*, *Bid Checklist*, and *Bid Cost Factors Forms* (Attachments 10, 4 & 5) will be completed by the department;

- e. 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;

Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and

The City may reject any or all bids, if there is a sound documented business reason, The Purchasing Agent or procuring department rejecting lower bids than the bid being accepted for award must provide a detailed written Determination of Findings outlining the reasons for rejection to the Purchasing Department for inclusion in the master file.

The sealed bid method is the preferred method for procuring construction.

In determining which proposals is most advantageous, grantees may award (if consistent with State law) to the proposer whose proposals offer the greatest business value to the Agency based upon an analysis of a tradeoff of qualitative technical factors and price/cost to derive which proposal represents the "best value" to the Procuring Agency. If the grantee elects to use the best value selection method as the basis for award, however, the solicitation must contain language which establishes that an award will be made on a "best value" basis.

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) The Department must have a written method in place for conducting technical evaluations of the proposals received and for selecting awardees.
- (5) Awards will be made to the responsible firm whose proposal is most advantageous to the grantee'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 Justification Form (Attachment 11)

Architectural and Engineering Services (A&E)

The Department shall use competitive proposal procedures based on the Brooks Act, when contracting for A&E services as defined in 40 U.S.C. §541 and 40 U.S.C. §5325(d).. 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 are 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 City must ensure all offerors/bidders agree to conform, to the extent applicable, to the intelligent Transportation System 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 determined inadequate; or
- e. The item is an associated capital maintenance item as defined in 49 U.S.C. §5307(a) (1) that is procured directly from the original manufacturer or supplier of the item to be replaced. The grantee must first certify in writing to FTA: (1) that such manufacturer or supplier is the only source for such item: and (ii) that the price of such item is no higher than the price paid for such item by like customers.

(2) A cost analysis, i.e., verifying the proposed cost data, the projections of the data, and the evaluation of the specific elements of costs and profit, is required.

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 for 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 City.

The Traditional Construction Process - Design/Bid/Build

It has been traditional in the construction industry to employ *an architect/engineer* to complete a detailed design of the entire project before soliciting bids from construction contractors. This traditional approach is known as *sequential design and construction*. This sequential design/construction approach requires that a detailed design package of the entire project be complete before bids are solicited from construction contractors. Following award of the construction contract, the NIE is often retained by the owner for the construction phase, and acts as the owner's agent, to inspect the construction work to ensure that the structures are built according to the designs and specifications.

Advantages - A major advantage of the sequential design and construction approach is that complex or one- of- a- kind projects can be thoroughly planned and thought through before construction begins. The traditional approach thus produces, in the design phase of the project, the most accurate estimate of final project costs, and this is an advantage of the traditional technique. If problems are encountered with design aspects for the latter stages of the project, the earlier design features or phases can be modified before any construction work has been done, thus avoiding construction contractor claims and delays. Another advantage is that the Agency is given a fixed price for completion of the entire project before construction begins. There may also be advantages in obtaining the necessary financing and project approvals. Overall management of the project should also be simplified by this approach.

Disadvantages - *Sequential design and construction* requires a longer time to complete the project than *phased design and construction ("fast tracking")*. And since time pressures are often the most intense issues confronting the Agency, the sequential method may not be feasible. Alternative contracting approaches have arisen to shorten the project completion time. These include *phased design and construction ("fast tracking")*, which often involves the use of a *construction manager*, and *turnkey (design-build)* contracting.

The *Noncompetitive Procurement Justification Form* and the *Sole Source Cost Analysis Form* (Attachments 6 & 9) must be completed prior to proceeding with this type of procurement.

Bid Protest Procedures

1. For the purposes of this section, the following definitions apply:
 - "Days" refers to the working days of the Federal Government.
 - "File" or "submit" refers to the date of receipt by MTU.
 - "Interested party" means an actual or prospective bidder, offeror, subcontractor, or supplier whose direct economic interest would be affected by the award of the contract or by failure to award the contract.
 - "Bid" includes the term "offer" or "proposal" as used in the context of negotiated procurements."
 - "Federal law or regulation" means the violation of any valid requirement imposed by Federal statute or regulation governing contracts awarded pursuant to a grant agreement. This includes the requirements as stated in **FTA Circular 4220.1F**.
2. Submission of Protest

Any interested party who wishes to protest at any point in the procurement process, evaluation, award, or post-award, may do so. An "interested party" must, however, be an actual or prospective bidder or offeror whose direct economic interest would be affected by the award of the contract or

by failure to award the contract.

All protests must be submitted in writing to:

Transit Manager
La Crosse Municipal Transit Utility
2000 Marco Drive
La Crosse, WI 54601

3. Time for Filing

Protests should be made as soon as possible but no later than five (5) working days following MTU procurement decision. The protest must contain a detailed statement of the grounds for protest and any supporting documentation.

4. Transit Manager Response

Upon receipt of a written protest, the Transit Manager will meet with the protester and attempt to resolve the matter informally within five (5) working days. If the protester is still not satisfied and indicates an intention to appeal to the next step, the Transit Manager will suspend the award of the contract temporarily unless he determines that:

- a. The items to be procured are urgently required;
- b. Delivery or performance will be unduly delayed by failure to make the awards promptly or;
- c. Failure to make the prompt award will otherwise cause undue harm to MTU or;
- d. There is no merit whatsoever in the protest.

5. Local Appeal Procedure

If the protester wishes to appeal the Transit Managers' decision, the matter will be forwarded to the City of La Crosse Municipal Transit Utility Board for review. The recommendation of the Transit Board will be forwarded to the City of La Crosse Finance and Personnel Committee for ultimate local disposition.

6. Additional Appeals

If the protest alleges that MTU has failed to follow its written bid protest procedures, the protester may ask that the Federal Transit Administration (FTA) review the protest in accordance with **FTA Circular 4220.1F**. If the protest alleges violation of a specific Federal requirement that provides an applicable complaint procedure, it may be submitted and processed in accordance with provisions of that particular regulation.

Alleged violations on all other grounds are under the jurisdiction of the appropriate State and local administrative or judicial authorities, and remedy may be sought through them.

The Protest Procedures language must be included in all Bids/RFP/RFB's, **(Attachment 16.)**

Costing and Pricing

Independent Cost Estimates

The Department must perform a cost or price analysis in connection with every procurement action, including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation (**FTA Circular 4220.1F**). The department must make independent estimates before receiving bids or proposals (**Attachment 5**). These estimates may be obtained from published competitive prices, results of competitive procurements, historical prices and trends, or by Purchasing Department estimates or outside estimators.

The *Cost and Price Analysis Form* must be completed prior to **awarding for any** solicitation, (Attachment 7)

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.

2. Price Analysis

- a. A price analysis may be used in all other instances to determine the reasonableness of the proposed contract price.

3. Profit

- a. The Department will negotiate profit 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.
- b. 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.

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. The City 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.

The Department 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 6). Also see Sole Source Contracting Section.

Contracts with a value of more than \$100,000 shall be awarded by sealed bid or by the competitive and noncompetitive proposal process unless there is an explicit exception. The Department 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.

Bonding Requirements

For those construction or facility improvement contracts or subcontracts exceeding \$100,000, FTA may accept the bonding policy and requirements of the grantee, provided FTA determined that the policy and requirements adequately protect the Federal interest. FTA has determined that grantee policies and requirements that meet the following minimum criteria adequately protect the Federal interest.

- 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 determined to adequately protect the federal interest are as follows:

Fifty percent of the contract price if the contract price is not more than \$1 million;

Forty percent of the contract price if the contract price is more than \$1 million but not more than \$5 million;
or

Two and a half million dollars if the contract price is more than \$5 million.

A Grantee may seek FTA approval of its bonding policy and requirements if they do not comply with these criteria.

Brand Name or Equals

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.

Departments 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, if the department wishes to use "brand name or equal" it 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 City's Code of Ethics Policy covers standards of conduct and conflict of interest issues. In addition, employees, officers, board members, or agents of the City of La Crosse are prohibited from participating in the selection, award, or administration of contracts or sub-agreements supported by federal funds if a real or apparent conflict of interest exists.

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 City 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

The Department 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.

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

The department 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 City 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 fourteen (14) 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. The Department 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 City of La Crosse 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's Information Form, providing the following data on each contractor and subcontractor:

- a. Firm name;
- b. Firm address;
- c. Firm's status as a DBE or non-DBE;
- d. Age of the firm; and
- e. Annual gross receipts of the firm.

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 the Purchasing Department 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 the Purchasing Department.

Types of Contracts

Fixed Price v. Cost Reimbursement

Procurement by the Sealed Bid/Invitation for Bids (IFB) method when certain conditions are present. Among those listed is the condition that:

- 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. Chapter VI, page 6 of [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. Chapter III, page 4 of [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. Chapter VI, page 7 of [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 City 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 City/Department 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. *Cost-type contracts are ideally suited to complex requirements because the parties can devote their attention to accomplishing the work rather than on the claims process, which will be significant on large, complex projects.*

Time and Materials Contracts

Departments will use time and materials contracts only:

- (1) After a 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 be completed and included with the file for this type of contract.

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)

The FTA Circular 4220.1F: clearly prohibits the use of this contracting method.

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 is considered sole source procurement. Please use the sole source policies for this type of action. FTA Circular 4220.1F, Chapter VI, page 21.

Contract Term Limitation

The City 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, leases 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 Contract

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 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 City.

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 City 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 the **Federal Circular 4220.1F**. A written procedure will be required prior to use of E-Commerce. Please call the Purchasing Office prior to use of this alternative.

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.

Progress Payments

Grantees 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) The grantee must obtain adequate security for progress payments adequate security may include taking title, letter of credit or equivalent means to protect the grantee's interest in the progress payment.

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.)
- b. Termination for cause and for convenience by the City 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 City 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 City 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 City 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,"

Flow down of FTA Clauses

Please see the attached *FTA Contract Clauses* as a guide to ensure the proper clauses are included in the procurement process. The relative clauses are required to be included in all FTA contracts and purchase orders. (Attachment 8)

A full text of all contract clauses may be found in the FTA Best Practices Manual **and the WisDOT Procurement Website.**

Buy America

As a condition of responsiveness to bidding for procurements of rolling stock, iron, steel, or manufactured products greater than \$100,000 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 City shall review the circumstances and determine if it should request a waiver from 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 FTA's Buy America web site <http://www.fta.dot.gov/legal/buyamerica> for additional information on requirements.

Certifications in compliance with Part 661.6 and 661.12 are provided in Attachments 13

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

Certifications in Attachment 14

1.2 SUBRECIPIENT PROCUREMENT PROCESS CHECKLIST

TO DO BEFORE THE PROCUREMENT PROCESS

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

PROCUREMENT PACKET PREPARATION

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

CONDUCTING THE PROCUREMENT

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

PRE-AWARD REVIEW AND CONCURRENCE PROCESS

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

POST-AWARD AND POST-DELIVERY ACTIVITIES

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



ATTACHMENT 2

Responsibility Determination Form

BID / RFP No: _____

Supplier: _____

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

- | | | | |
|---|-----|----|-------------------------|
| 1. Appropriate financial, equipment, facility, and personnel. | Yes | No | _____

_____ |
| 2. Ability to meet the delivery schedule. | Yes | No | _____

_____ |
| 3. Satisfactory period of performance. | Yes | No | _____

_____ |
| 4. Satisfactory record of integrity, not on declined or suspend listings. | Yes | No | _____

_____ |
| 5. Receipt of all necessary data from supplier. | Yes | No | _____

_____ |
| 6. Debarred and Suspended List has been checked (supplier not listed) | Yes | No | _____

_____ |



ATTACHMENT 3

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	Competitive Procurement	Sole Source
Amount <\$2500 <input type="checkbox"/>	Amount >\$2500 <input type="checkbox"/>	OEM or custom item <input type="checkbox"/>
Multiple sources <input type="checkbox"/>	Multiple sources available <input type="checkbox"/>	Only one source available <input type="checkbox"/>
	Not an emergency purchase <input type="checkbox"/>	Approved by FTA- sole source <input type="checkbox"/>
	Sealed Bid (IFB)	Public exigency issue/emerg. <input type="checkbox"/>
I	Complete & adequate specs or purchase description <input type="checkbox"/>	Competition is inadequate after public solicitation <input type="checkbox"/>
	Two or more responsible Bidders willing to compete. <input type="checkbox"/>	Emergency Procurement (subset of sole source)
	Selection can be made on basis of price <input type="checkbox"/>	There is a health and safety issue that prohibits delay. <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"/>	
	Fixed 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 <input type="checkbox"/>	
	Price and qualitative consideration	
	Greatest value to the City	



ATTACHMENT 4

Bid Checklist Form

	<u>YES</u>	<u>NO</u>
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	_____	_____

ATTACHMENT 5 – INDEPENDENT COST ESTIMATE

Instructions for Use

1. Use this template for developing independent cost estimates (ICE) for formal solicitations. The ICE must be signed and dated. The ICE and any supporting documentation must be filed in its appropriate place in the Procurement History File.
2. Purchase Request Number – If applicable, insert Purchase Request identifier.
3. Item Description/Project Name – Enter a brief description of the item or service to be purchased.
4. Delivery/Completion Date – Enter the date that the item or service must be delivered or completed.
5. Preparer's Name and Signature – Print and sign if you are the developer of the ICE.
6. Total Estimated Price/Cost – Enter the procurement's total anticipated price or cost. Include option years, if applicable.
7. Date of Estimate – Enter the date that the ICE was developed.
8. Method – Check all of the listed methods which were used in developing the current ICE and attach any supporting documents such as catalog or Internet-based search pages, etc.
9. Cost Estimate Details – When you anticipate that cost analysis will be necessary in order to determine the procurement's "price reasonableness" prior to award and in developing cost estimates using cost groupings (elements) such as Materials, Overhead, SG&A (Selling, General, and Administrative expenses), refer to the cost principles set forth in Federal Acquisition Regulation (FAR) Part 31, Contract Cost Principles and Procedures).

(INSERT NAME OF TRANSIT SYSTEM)
INDEPENDENT COST ESTIMATE

Purchase Request Number	Item Description/Project Name	Delivery/Completion Date
Name/Signature of Preparer	Total Estimated Price/Cost	Date of Estimate

Method. The above estimate has been developed as follows (check all that apply):

- _____ Published catalog or price list (attach pertinent catalog or price list pages).
- _____ Recent prices for the same or similar item/service (identify contracts, purchase orders, sources, and additional helpful information (e.g. dates of award), and attach any pertinent documents):
- _____ In-house engineering or technical estimate (see details below).
- _____ Independent Third Party estimate developed by _____ (attach the estimate).
- _____ Other (specify): _____
- _____ If appropriate, the estimates/prices herein have been made current by adjusting for inflation using the following Producer or Consumer Price Index: _____

Cost Estimate Details. Details for the estimated price/cost identified are shown below.

Cost of Standard Items

Product	Unit Cost	Unit Cost	Notes / Data Source
	Delivered	No Freight	

A

Cost of Services, Repairs, or Non-Standard Items

Item / Task:							
Materials	Other Direct Costs	Labor (rate, hours)	Labor Class	Allocated Overhead	SG&A	Profit	Total

B

NOTE: For complex projects or tasks, attach additional supporting documentation, as appropriate.



ATTACHMENT 5

Bid Cost Factors Form

Solicitation / Bid No: _____

Supplier Price Evaluation Factors:

1. Purchase price: \$ _____
2. Payment discount terms: _____
3. Transportation costs: _____
4. Warranty: _____
5. Installation: _____
6. Training: _____
7. Technical assistance: _____

Total bid: _____

Evaluation: \$ _____



ATTACHMENT 6

**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).

_____ The item is an associated capital maintenance item as defined in 49 U.S.C. §5307(a)(1) that is procured directly from the original manufacturer or supplier of the time to be replaced (price certification attached).

Comments:

_____ Cost Analysis is attached.

Purchasing Agent

Department Manager

Date

Date

ATTACHMENT 7 – COST/PRICE ANALYSIS AND PRICE REASONABLENESS

Instructions for Use

1. The format provided is intended to document cost/price analysis and price reasonableness for procurement of supplies or services. In most instances, “price reasonableness” can be determined based upon comparison with current in-house bids or offers for the same requirement (on the same procurement) and/or currently existing contracts for the same or similar products or services. In the latter case, take care to provide sufficient documentation to support the case that the proposed awardee’s offered prices on the instant contract are, in fact, *based on prices on currently existing contracts wherein such prices have previously been found to be “fair and reasonable.”* Modify the Summary Matrix as appropriate to accommodate additional bidders and/or items.
2. For a sole source procurement, prepare a cost analysis verifying the proposed cost data, the projections of the data, and the evaluation of the costs and profits.
3. Refer to the WisDOT Invitation for Bid Procurement Toolkit, Section 6.17, for guidance relevant to conducting price analysis and documenting price reasonableness. Price analysis must be conducted and price reasonableness determined prior to any contract award.
4. The analysis must be signed and dated by the individual conducting the analysis and determining the prospective awardee’s price to be “fair and reasonable.”
5. The Price Analysis and Price Reasonableness Determination and any supporting documentation must be filed in its appropriate place in the Procurement History File.

COST/PRICE ANALYSIS AND PRICE REASONABLENESS DETERMINATION

Contract Number: _____ Item Description _____

Original Procurement: Yes ____ No, option year; Year 1: ____, Year 2: ____, Year 3: ____, or Year 4: ____

I hereby determine that the prices offered by (supplier name) _____ for the purchase of these products or services to be fair and reasonable based on the following analysis:

Check one or more which apply:

____ Comparison of and based on current offers received for the same or similar services (complete matrix below).

____ Comparison of proposed pricing with pricing from recent purchases for the same or similar services, adjusted by the pertinent Consumer or Producer Price Index or Inflation Rate over the corresponding time period, if appropriate. This includes the same or similar services found on existing State or municipal contracts (identify contract pricing sources and attach supporting documentation).

____ Comparison of price components against current industry standards, such as labor rates, dollars per pound, dollars per square foot, etc., to justify the price reasonableness of the whole (attach the analysis which supports the conclusions drawn).

____ Comparison with published catalog prices or price lists, commercially advertised sales prices, or prices obtained through other market research (e.g., Internet-based, trade journals, etc.) for the same or similar item commercially available from competing suppliers (complete the matrix below and attach supporting quotes, catalog pages, price lists, advertisements, etc.).

____ Comparison of proposed pricing with an in-house independent cost estimate for the same or similar item (complete the matrix below, attach the signed in-house estimate, and explain factors influencing any differences found).

____ The quoted price is from a regulated utility (identify the utility in the "Comments" section below).

____ Other (e.g., verifiable sales information for the same or similar items sold to the supplier's other customers (discuss in the "Comments" section below and attach supplier's sales information).

SUMMARY MATRIX

For multi-year contracts	Item	Proposed Pricing	Average Market Price	Offeror A	Offeror B	In-House Estimate	Other
Years 1&2							
Option Yr 1							
Option Yr 2							
Option Yr 3							

Reason for the selection:

Supporting documents are attached. This analysis and determination will be filed in the Procurement History File.

Purchasing Agent (Print Name, Sign, and Date)

FEDERALLY REQUIRED CONTRACT CLAUSES

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

<http://www.nationalrtap.org/>

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

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

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

CLAUSE	TYPE OF PROCUREMENT				
	Professional Services/A&E	Operations/ Management/ Recipients	Revenue Rolling Stock	Construction	Materials & Supplies
No Federal government obligations to third-parties by use of a disclaimer	All	All	All	All	All
Program fraud and false or fraudulent statements and related acts	All	All	All	All	All
Access to Records	All	All	All	All	All
Federal changes	All	All	All	All	All
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			>\$100,000	>\$100,000	>\$100,000 (for steel, iron, manufactured products)
Provisions for resolution of disputes, breaches or other litigation	>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000
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

CLAUSE	TYPE OF PROCUREMENT				
	Professional Services/A&E	Operations/ Management/ Recipients	Revenue Rolling Stock	Construction	Materials & Supplies
Cargo Preference			Involving property that may be transported by ocean vessel	Involving property that may be transported by ocean vessel	Involving property that may be transported by ocean vessel
Fly America	Involving foreign transport or travel by air	Involving foreign transport or travel by air	Involving foreign transport or travel by air	Involving foreign transport or travel by air	Involving foreign transport or travel by air
Davis Bacon Act				>\$2,000 (including ferry vessels)	
Copeland Anti-Kickback Act				Section 1: All Section 2: >\$2,000 (including ferry vessels)	
Contract Work Hours & Safety Standards Act		>\$100,000	>\$100,000	>\$100,000 (including ferry vessels)	
Bonding (not required of states)				>\$100,000 (including ferry vessels)	
Seismic Safety	A&E for new Buildings & additions			New buildings & additions	
Transit Employee Protective Arrangements		Transit operations funded with Section 5307, 5309, 5311 or 5316 funds			
Charter Service Operations		All			
School Bus Operations		All			
Drug and Alcohol Testing		Transit operations funded with Section 5307, 5309 or 5311 funds			
Patent Rights	Research & development				
Rights in Data and Copyrights requirements	Research & development				
Disadvantaged Business Enterprises (DBEs)	All	All	All	All	All
Prompt Payment	All non TVM purchases if threshold for DBE program met	All non TVM purchases if threshold for DBE program met	All non TVM purchases if threshold for DBE program met	All non TVM purchases if threshold for DBE program met	All non TVM purchases if threshold for DBE program met

CLAUSE	TYPE OF PROCUREMENT				
	Professional Services/A&E	Operations/ Management/ Recipients	Revenue Rolling Stock	Construction	Materials & Supplies
Recycled Products		Contracts for items designated by EPA, when procuring \$10,000 or more per year		Contracts for items designated by EPA, when procuring \$10,000 or more per year	Contracts for items designated by EPA, when procuring \$10,000 or more per year
ADA Access	A&E	All	All	All	
Veterans Employment				All	
Special Notification Requirements for States	Limited to states	Limited to states	Limited to states	Limited to states	Limited to states

REQUIRED CERTIFICATIONS, REPORTS, AND FORMS
(excluding micro-purchases, except for construction contracts over \$2,000)

REQUIREMENT	COMMENTS	MASTER AGREEMENT REFERENCE***
Bus Testing Certification and Report	Procurements of buses and modified mass produced vans	§17.p(4)
Transit Vehicle Manufacturer Certification	Procurements of buses and modified mass produced vans	§13.d(3)
Buy America Certification	Projects >\$100,000 that contain steel, iron or manufactured products (see note)	§16.a
Pre-Award Audit	Rolling stock procurements	§17.p(3)
Pre-Award Buy America Certification	Rolling stock procurements>\$100,000(see note)	§17.p(3)
Pre-Award Purchaser's Requirement Certification	Rolling stock procurements	§17.p(3)
Post-Delivery Audit	Rolling stock procurements	§17.p(3)
Post-Delivery Buy America Certification	Rolling stock procurements >\$100,000(see note)	§17.p(3)
Post-Delivery Purchaser's Requirement Certification	Rolling stock procurements	§17.p(3)
On-Site Inspector's Report	Rolling stock procurements for more than 10 vehicles for areas >200,000 in population and 20 for areas <200,000 in population	§17.p(3)
Federal Motor Vehicles Safety Standards Pre-Award and Post-Delivery Certification	Non-rail rolling stock procurements	§17.p(3)
Excluded Parties Listing System search	Procurements > \$25,000	§3.b
Lobbying Certification	Procurements > \$100,000	§3.d
Standard Form LLL and Quarterly Updates (when required)	Procurements > \$100,000 where contractor engages in lobbying activities	§3.d



ATTACHMENT 9

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 suppliers' costs first hand and assessment for completeness and reasonableness, including evidence and rationale for determination.



ATTACHMENT 11

Award Recommendation & Justification Form

Department: _____

Procurement Number: _____
(RFP/BID #)

Subject: _____

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

Recommendation:

Justification:

Approvals:

PROCURING AGENT



ATTACHMENT 12

Price / Rate Quotation Form

Department: _____

Subject: _____

Report Date: _____ Number of Quotes Received: _____

Qty.	Qty/Ctn	Item	Vendor	Price	Amount

Recommendation:

Approvals: _____

PROCURING AGENT

Buy America

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 _____

Buy America

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 _____

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

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.

Signature of Contractor's Authorized Official

Name and Title of Contractor's Authorized Official

Date

ATTACHMENT 15

**Certification Regarding Debarment, Suspension, Ineligibility and Voluntary
Exclusion Lower Tier Covered Transactions**

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 49 CFR Part 29, prohibits FTA recipients and subrecipients from contracting for goods and services from organizations that have been suspended or debarred from receiving federally-assisted contracts.

The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

The prospective lower tier participant further agrees by submitting this proposal that it will include this certification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

Business Name: _____

Date: _____

By: _____
Name and Title

Signature of Authorized Representative

Return this Certification with your bid.

Bid Protest Procedures

1. For the purposes of this section, the following definitions apply:
"Days" refers to the working days of the Federal Government.
"File" or "submit" refers to the date of receipt by MTU.
"Interested party" means an actual or prospective bidder, offeror, subcontractor, or supplier whose direct economic interest would be affected by the award of the contract or by failure to award the contract.
"Bid" includes the term "offer" or "proposal" as used in the context of negotiated procurements."
"Federal law or regulation" means the violation of any valid requirement imposed by Federal statute or regulation governing contracts awarded pursuant to a grant agreement. This includes the requirements as stated in FTA Circular 4220.1F.
2. Submission of Protest
Any interested party who wishes to protest at any point in the procurement process, evaluation, award, or post-award, may do so. An "interested party" must, however, be an actual or prospective bidder or offeror whose direct economic interest would be affected by the award of the contract or by failure to award the contract.

All protests must be submitted in writing to:
Transit Manager
La Crosse Municipal Transit Utility
2000 Marco Drive
La Crosse, WI 54601
3. Time for Filing
Protests should be made as soon as possible but no later than five (5) working days following MTU procurement decision. The protest must contain a detailed statement of the grounds for protest and any supporting documentation.
4. Transit Manager Response
Upon receipt of a written protest, the Transit Manager will meet with the protester and attempt to resolve the matter informally within five (5) working days. If the protester is still not satisfied and indicates an intention to appeal to the next step, the Transit Manager will suspend the award of the contract temporarily unless he determines that:
 - a. The items to be procured are urgently required;
 - b. Delivery or performance will be unduly delayed by failure to make the awards promptly or;
 - c. Failure to make the prompt award will otherwise cause undue harm to MTU or;
 - d. There is no merit whatsoever in the protest.
5. Local Appeal Procedure
If the protester wishes to appeal the Transit Managers' decision, the matter will be forwarded to the City of La Crosse Municipal Transit Utility Board for review. The recommendation of the Transit Board will be forwarded to the City of La Crosse Common Council for ultimate local disposition.
6. Additional Appeals
If the protest alleges that MTU has failed to follow its written bid protest procedures, the protester may ask that the Federal Transit Administration (FTA) review the protest in accordance with FTA C 4220.1F. If the protest alleges violation of a specific Federal requirement that provides an applicable complaint procedure, it may be submitted and processed in accordance with provisions of that particular regulation.

Alleged violations on all other grounds are under the jurisdiction of the appropriate State and local administrative or judicial authorities, and remedy may be sought through them.