

Staff Report

To: Board of Directors
From: Frank Kuhl
Date: June 28, 2026

Agenda Item: 5.5 Procurement Manual Update 2026

Attachments:

- 5.5.1 Draft Procurement Manual
- 5.5.2 Draft \$25k-\$80k Contract Update Staff Report

Recommendation:

Approve new policies and procedures in the revised and updated procurement manual.

Discussion:

The procurement manual is being updated for the first time since 2022. The majority of the updates are clerical, grammatical, or formatting changes, however, there are some policy changes regarding the board approval threshold and process, contract amendments, and contingencies. New language that affects policy changes is denoted in red below and highlighted in the attached procurement manual.

2.4 Board of Directors' Approval (see page 11 of procurement manual)

The CEO & GM is not authorized to execute a purchase order or contract over \$80,000 without the board's express prior consent. However, in the case of an emergency, the CEO & GM may authorize necessary purchases of any size and obtain board approval retroactively. An emergency is defined as a real and present threat to The District's property, employee welfare, or the provision of transit service which cannot be reasonably alleviated without the purchase in question. A declaration of emergency detailing the exigency of the situation must be submitted to the board for each emergency purchase the CEO & GM approves without prior consent.

If a contract is between \$25,000 and \$80,000, it may require the board's approval if it is determined to constitute a strategic decision. A strategic decision is present if one or more of the following conditions apply:

The following factors can be used to determine whether a contract must seek and obtain approval by the Board of Directors.

- A contract between \$25,000 and \$80,000:

- Establishes or materially changes agency policy, service standards, or operational practices.
- Establishes a vendor, technology, or service approach likely to influence future procurements of scale.
- The CEO & GM determines that the contract warrants board visibility due to its strategic importance.

Approval of Board of Directors for Contract Amendments (see page 11 of procurement manual)

Any amendment or change order to a contract with a value of over \$80,000, or to a contract that has been determined to constitute a strategic decision, must seek and obtain approval by the board of directors, unless the contract contains a contingency that can absorb the amendment's value.

Contract amendments that increase the value of a sub-\$80,000 contract to an amount greater than \$80,000 must seek and obtain approval by the board.

The \$80,000 board approval procurement threshold shall be reviewed on an annual basis upon the board approving the procurement manual.

2.5 Board Visibility and Awareness (see page 12 of procurement manual)

All contracts are to be budgeted. Any contract between \$25,000 and \$80,000 will be presented to the board in the monthly meeting packet describing the procurement method, selected vendor, and use case contract terms (duration, renewal, price, and options).

4.6 Contingencies (see page 25 of procurement manual)

A contingency may be applied to certain contracts as appropriate and with discretion. Contingencies are often advantageous in architecture and engineering and construction contracts and can sometimes be applicable in professional services contracts. Contingencies are not typically used in materials, supplies and equipment contracts. However, there may be instances where contingencies for these contacts are appropriate or prudent.

Staff will be thoughtful and deliberate when proposing contingency on contracts subject to board approval.

4.6 Procurement Form 1 (see page 31 of procurement manual)

Form 1 has been amended to ask the procurement requestor to include a draft scope of work and 2 – 3 price points for a draft cost estimate. This will assist in refining project scope and budget early in the process.

Financial Impact and Funding Source:

Not applicable.

DBE Certified:

No.

Mountain Line
How Missoula Rolls



Procurement Procedures Manual

Missoula Urban Transportation District

dba Mountain Line

1221 Shakespeare St

Missoula, MT 59802

Adopted:

February 22, 2018

Amended:

April 25, 2019

September 16, 2019

September 22, 2022

June 18, 2026 (pending board approval)

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Section 1: Procurement Overview

1.1 Introduction

The Missoula Urban Transportation District is required to ensure compliance with various state, federal, and local laws regarding the procurement of goods and services. These laws and regulations are designed to minimize the emergence of corrupt, unethical, and illegal practices, and to ensure that The District uses public funds fairly and efficiently. However, they are also complex, detailed, and constantly changing. Therefore, in order to facilitate consistent implementation and continuing compliance, it's critical that The District develops comprehensive procurement procedures that are tailored to its own organizational needs.

The District has developed the Procurement Procedures Manual to integrate procurement best practices into the agency's overall business strategy. Effective implementation of the Manual will enable The District to lower costs, improve quality of service, respond to changing market and regulatory conditions, and enhance its overall reputation with the public and its funding partners.

1.2 About The District

The District was created by voters in 1977 to provide public transportation services in the Missoula area. It is a separate legal entity from either the County or City of Missoula local governments, as allowed by Title 7, Chapter 14, Part 2, MCA. The District is governed by a seven-member board of directors, whose membership is appointed by the city council and the Board of County Commissioners. The District's boundaries, which are changed according to the mutual consent of individual property owners and the board of directors, currently encompass about 36 square miles.

1.3 Regulatory Framework

As a recipient of grant funding from the Federal Transit Administration (FTA), The District must comply with the applicable federal laws and regulations, including but not limited to:

- 49 U.S.C. Chapter 53
- 49 C.F.R. Parts 601-699
- 49 C.F.R. Parts 1-99

The Manual has been developed in close consideration of the guidance offered by FTA's 'Circular 4220.1F' and 'Best Practices Procurement and Lessons Learned Manual' both of which were developed to assist recipients in complying with the above laws and regulations.

In addition, this policy strives to comply with applicable Montana statutory procurement regulations:

- MCA Title 7, Chapter 5, Part 23, "County Contracts"
- MCA Title 18, "Public Contracts"
- Rule 2.5 of the Administrative Rules of the State of Montana, "State Procurement"

1.4 Applicability

The Manual applies to all procurement activity conducted by The District, regardless of funding source. The District believes that instituting consistent procedures for all procurements will facilitate better compliance, and is in the best interest of The District and its constituents.

In the event the Manual does not partially or wholly address a specific procurement activity or situation, The District shall defer to the guidance, laws, and regulations listed in Section 1.2, and to the FTA's Region 8 staff.

In the event of a conflict between the requirements of state, federal, local or agency regulations, The District will follow the most restrictive regulation.

1.5 Organizational Structure

The District recognizes that achieving full and open competition in its procurement activities, the overarching goal of federal procurement requirements begins with a well-planned organizational structure and delegation of authority. Considering this, the following principles underpin The District's organizational structure and delegation of authority relating to procurement:

1. Clear Delegation of Authority to Qualified Individuals. No employee should undertake any procurement function without clearly delegated authority and necessary training.

2. Centralized Procurement Function. It is easier for an entity to manage its procurement responsibilities if most of the decisions and contractual actions are concentrated on one or more experienced individuals.
3. Autonomous Procurement Functions. When procurement responsibilities are executed without the undue influence of an agency’s internal users of the goods or services, it enables an unbiased consideration of procurement requirements and agency needs.
4. Internal Controls. Institutionalized checks and balances enable an agency to control the propriety of its own actions, rather than relying on external reviews.

1.6 Roles and Responsibilities

Procurement can be divided into three distinct functions: the *requiring* activity, which determines what is needed; the *procurement* activity, which selects and purchases goods and services to meet the need; and the *payment* activity, which releases funds. Checks and balances, or ‘internal controls,’ are created when these three functions are autonomous and independently occurring within an agency. Figure 1 provides more detail on the roles and responsibilities associated with each procurement function.

Figure 1. *Three Distinct Procurement Functions*

Requiring Activity	Procurement Activity	Payment Activity
<ul style="list-style-type: none"> • Determines what is needed • Prepares specifications 	<ul style="list-style-type: none"> • Prepares and oversees solicitations • Ensures compliance with laws, rules, and regulations • Evaluates bids • Awards contracts/purchases • Accepts goods and services 	<ul style="list-style-type: none"> • Ensures necessary approvals are obtained • Matches invoice, purchase order, and receiving report • Releases funds

The size and type of procurement determines how procurement authority is delegated within The District staff, as shown in Table 1. In general, the CEO & GM chief executive officer and general manager and department managers are responsible for determining what goods and services are needed (the *requiring* activity), the procurement and

contracts specialist is responsible for selecting and purchasing goods and services (the *procurement* activity), and the finance and administration department is responsible for verifying approvals and making payments (the *payment* activity).

In order to facilitate efficient business functioning, for individual purchases of \$10,000 or less, the CEO & GM and department managers may delegate authority for determining agency needs, and for selecting and purchasing goods and services, to non-management staff persons. For example, the director of operations may authorize the maintenance foreman to determine needed parts and place individual orders of \$10,000 or less. To manage the risks associated with this decentralized arrangement, the delegation of project-specific procurement authority to non-management staff will be determined on an annual basis (Section 1.8), and all staff will receive the necessary training to ensure compliance with the procedures in this manual (Section 1.7).

Table 1. Delegation of Procurement Authority

Procurement Level	Requiring Authority	Procurement Authority	Payment Authority
<p>\$9,999 or less Micropurchases</p>	<ul style="list-style-type: none"> • CEO/General Manager • Director of Finance • Director of Operations • Project-Specific Authority Granted to Individuals in Annual Procurement Plan 	<ul style="list-style-type: none"> • CEO/General Manager • Director of Finance • Director of Operations • Project-Specific Authority Granted to Individuals in Annual Procurement Plan • Procurement and Contracts Specialist 	<ul style="list-style-type: none"> • Director of Finance • Administrative Supervisor • Administrative Services Assistant • Project-Specific Authority Granted to Individuals in Annual Procurement Plan • Procurement and Contracts Specialist
<p>\$10,000 or more Small and Large Purchases</p>	<ul style="list-style-type: none"> • CEO/General Manager • Director of Finance • Director of Operations 	<ul style="list-style-type: none"> • Procurement and Contracts Specialist 	<ul style="list-style-type: none"> • Director of Finance

1.7 Staff Training and Education

The effective implementation of this Manual depends on the individuals who undertake procurement activities. Each individual that is assigned procurement authority (Table 1) must have a working knowledge of the requirements and procedures set forth in this manual, as well as the underlying principles, laws, and regulations. In particular, it is essential that individuals authorized to make purchases of less than \$10,000, without prior consultation of the procurement and contracts specialist, understand the applicable laws and regulations and The District's procedures associated with such procurement actions.

The CEO & GM will ensure that each employee who undertakes procurement activities receives training provided from the procurement and contracts specialist, or from another qualified source, on an annual basis. This training will be documented in the annual procurement plan.

1.8 Standards of Conduct

Ethical principles should govern the conduct of all persons engaged in procurement activities in order to protect the public interest and The District's reputation. As such, the following standards of conduct will apply to all employees and directors who engage in procurement activities on behalf of The District. They shall:

- Not accept gifts of any type, price, or size from any person or firm doing business with The District or any person who intends to do business with The District;
- Not directly or indirectly seek or accept personal gain that would influence, or appear to influence, the conduct of their official duties;
- Not use public property or resources for personal gain;
- Disclose any actual or perceived conflict of interest that exists between themselves and an offeror, and accept that they may be ineligible to participate in the solicitation or evaluation process if a conflict of interest is perceived to exist;
- Exercise prudence and integrity in the management of funds in their custody and in all financial transactions; and
- Demonstrate professional integrity in the issuance and management of information related to solicitations, evaluations, or contract negotiations.

Violations of the above standards of conduct may result in disciplinary action up to and including termination.

1.9 Annual Procurement Plan

The Procurement and contracts specialist, in coordination with the CEO & GM and the management team, shall prepare an annual procurement plan at the beginning of each fiscal year. The purpose of the plan is to:

1. Identify opportunities to consolidate recurring micro-purchases into competitive procurements.
2. Prepare a schedule for competitive procurements.
3. Identify any non-management staff that are authorized for procurement activity below the \$10,000 threshold, and the specific programs or projects for which they are authorized.
4. Document that all individuals with procurement responsibilities have received appropriate training, or provide a plan for providing such training (Section 1.7).
5. List all open contracts, their status, and individuals authorized to approve payments on the contract.
6. Certify that the procurement procedures manual has been updated to reflect any applicable changes in laws or regulations at the state, federal, or local levels, and any applicable personnel or policy changes within the District, or provide a plan for completing the necessary updates.

The annual procurement plan will require each department to review its prior year's purchasing activity, and to anticipate its purchasing requirements in the forthcoming year. It should lead to significant benefits for the District, including better pricing and improved project execution. It will also ensure better utilization of staff procurement resources and the regular evaluation of procurement policies and procedures.

Section 2: General

Procurement Requirements

2.1 Types of Purchases

To assist in identifying the applicable federal regulations, each of the District's purchases can be assigned to one of the seven categories described in Table 2.

Table 2. Purchase Types

Category	Description	Examples
Professional Services	Technical or consulting services intended to produce a specific product, or to supplement the expertise of the District.	<ul style="list-style-type: none"> • Marketing Services • IT Managed Services • Accounting Services • Long Range Planning • Other Non-A&E Consulting Services
Materials, Supplies, and Equipment	General purpose items necessary for day-to-day business functions.	<ul style="list-style-type: none"> • Tools • Fuel • Office Supplies • Computers and IT equipment
Architecture & Engineering	Services of associated with the design, construction, alteration, or repair of real property.	<ul style="list-style-type: none"> • Engineering drawings for bus stop reconfigurations • Architectural design services
Operations and Management	Transit related services under a contractual agreement.	<ul style="list-style-type: none"> • Contract with a public transit provider • Contract with a mobility coordinator • Contract for program management • Contract for call center brokerage
Construction	Services for design and construction of transit related facilities.	<ul style="list-style-type: none"> • Transit Facility • Bus Wash • Transit Hub • Rehabilitation or Expansion of Transit Facilities
Revenue Vehicles	Vehicles intended to carry passengers in revenue service.	<ul style="list-style-type: none"> • Buses • Cut-aways • Vans
Non-Revenue Vehicles	Support vehicles not intended for revenue service.	<ul style="list-style-type: none"> • Service vehicles • Utility trucks • Maintenance vehicles



2.2 Credit Card Use

The District's credit card policy governs credit card usage.

2.3 Purchase Orders and Purchase Contracts

The District requires a legally binding agreement, in the form of a purchase order or contract, to be signed and executed by the CEO & GM for all procurements **over \$5,000**.

A purchase order is issued to a supplier by the individual with procurement authority for a particular purchase, indicating the types, quantities, and agreed prices for products or services that the supplier will provide to The District. The District uses a unilateral purchase order form that does not require the supplier to sign and return a copy. When the supplier receives and accepts the purchase order, it becomes an agreement between The District and the supplier with the same force and effect as a formal contract.

A contract may be used in place of a purchase order at the CEO & GM's discretion. Contract terms are limited to five (5) years for rolling stock and seven (7) years for all other contracts (MCA 18-4-313).

2.4 Board of Directors' Approval

The CEO & GM is not authorized to execute a purchase order or contract **over \$80,000** without the board's express prior consent. However, in the case of an emergency, the CEO & GM may authorize necessary purchases of any size and obtain board approval retroactively. An emergency is defined as a real and present threat to The District's property, employee welfare, or the provision of transit service which cannot be reasonably alleviated without the purchase in question. A declaration of emergency detailing the exigency of the situation must be submitted to the board for each emergency purchase the CEO & GM approves without prior consent.

If a contract is between \$25,000 and \$80,000, then it *may* require the board's approval if it is determined to constitute a strategic decision. A strategic decision is present if one or more of the following conditions apply:

The following factors can be used to determine whether a contract must seek and obtain approval by the Board of Directors.

- A contract between \$25,000 and \$80,000:
 - Establishes or materially changes agency policy, service standards, or operational practices.

- Establishes a vendor, technology, or service approach likely to influence future procurements of scale.
- The CEO & GM determines that the contract warrants board visibility due to its strategic importance.

Approval of Board of Directors for Contract Amendments

Any amendment or change order to a contract with a value of over \$80,000, or to a contract that has been determined to constitute a strategic decision, must seek and obtain approval by the board of directors, unless the contract contains a contingency that can absorb the amendment's value.

Contract amendments that increase the value of a sub-\$80,000 contract to an amount greater than \$80,000 must seek and obtain approval by the board.

The \$80,000 board approval procurement threshold shall be reviewed on an annual basis upon the board approving the procurement manual.

2.5 Board Visibility and Awareness

All contracts are to be budgeted. Any contract between \$25,000 and \$80,000 will be presented to the board in the monthly meeting packet describing the procurement method, selected vendor, use case contract terms (duration, renewal, price, and options).

2.6 General Agency Requirements Summary

Table 3. General Agency Requirements

Procurement Level	Description	Purchase Order	Credit Cards	Board Approval
Less than \$5,000	Micropurchase	No	Yes	No
Less than \$10,000	Micropurchase	Yes	Yes	No
Less than \$25,000	Small Purchase	Yes	No	No
Less than \$80,000	Small Purchase	Yes	No	No, but must be disclosed at subsequent board meeting
Less than \$250,000	Small Purchase	Yes	No	Yes
\$250,000 or more	Large Purchase	Yes	No	Yes

2.7 Requirements for Micropurchases (\$10,000 or less)

A micropurchase is defined by a threshold determined by the Federal Acquisition Regulation (FAR), which is currently set at \$10,000. Periodically, this threshold is adjusted for inflation. For purchases below this threshold, procurement requirements are designed in consideration of the administrative cost of verifying price reasonableness versus the potential savings from detecting instances of overpricing. The following requirements apply:

- The price must be determined to be fair and reasonable, based on recent research, experience, or purchases. Purchases can be made without obtaining competitive quotations.
- Purchases must be distributed equitably among qualified vendors.
- Purchases cannot be broken down into smaller parts merely to avoid the requirements that apply to purchases over the micropurchase threshold (known as “splitting”).

2.8 Requirements for Small and Large Purchases (Over \$10,000)

Full and Open Competition

The District requires that all procurements are conducted in a manner providing for 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 (“best buy”). The secondary purposes are to guard against favoritism and profiteering at public expense, and to provide equal opportunities for potential proposers to participate in public business. The District considers the following practices to be restrictive of competition:

- Unreasonable requirements placed on firms in order for them to qualify to do business with the District
- Unnecessary experience requirements
- Excessive bonding requirements
- Noncompetitive pricing practices between firms or between affiliated companies
- Noncompetitive awards to any person or firm on retainer contracts
- Restrictive usage of brand names;
- Any arbitrary action in the procurement process
- Geographic preferences
- Organizational conflicts of interest
- Prohibitive or restrictive contracts.

Organizational Conflicts of Interest

An organizational conflict of interest exists when work performed by a contractor may result in an unfair competitive advantage for the contractor, or impair the contractor’s objectivity in performing its contract. Common situations that must be safeguarded against include:

- When a contractor has access to information that has not been made available to the public, and the information enhances the contractor’s position in a procurement process; and
- When a contractor is allowed to write specifications or statements of work and to then compete for a future contract based on those specifications.

The District must avoid taking any action that might result in, or create the appearance of an organizational conflict of interest. Each board member of the Board of Directors signs a conflict of interest declaration at the beginning of the year. The District may mitigate

real or apparent conflicts of interest by placing restrictions on involving contractors, employees, or board members in a procurement process.

Written Record of Procurement History

The District must maintain detailed historical procurement records. The FTA's procurement best practices manual recommends that agencies maintain records for three years following project completion. Some examples of written procurement documentation for historical records include:

- Purchase request, acquisition planning information and other pre-solicitation documents
- Rationale for the method of procurement (i.e. RFP, sole source)
- Independent cost estimate
- Copy of the solicitation, all addenda and amendments
- List of solicited firms and individuals
- Copies of published notices of proposed contract action
- A summary of offers or quotes received
- Reasons for contractor selection or rejection
- Determination that contractor is responsive and responsible
- Determination that price is fair and reasonable including an analysis of the cost and price data
- Notice of award
- Notice to unsuccessful offerors and record of any debriefing
- Record of any protest
- Required insurance documents, if any
- Notice to proceed

Clear, Accurate, and Complete Specifications

The District is required to provide an adequate and realistic specification or scope of work for every procurement that is detailed, clearly written and reviewed for accuracy and clarity prior to being released for bids or proposals.

To ensure that procurements are awarded in a fair and equitable manner, all solicitations, regardless of dollar amount, must identify all the requirements that vendors must fulfill, and all other factors to be used in evaluating bids or proposals.

Form 2 (pg A-3) details the process for preparing a specification or scope of work.

Independent Cost Estimate

For all procurements, the District must prepare an unbiased cost estimate prior to receiving bids in order to establish a clear basis for cost or price. The independent cost estimate is developed based on product knowledge, experience, or market status, and is used in analyzing price and cost later in the procurement process.

Form 3 (pg A-5) details the process for conducting an independent cost estimate.

Cost or Price Analysis

The District must perform a price or cost analysis in conjunction with every procurement action, including contract change orders, to document that the price to be paid by the District fair and reasonable. The type and degree of the analysis depends on the facts of the situation:

- **Price Analysis.** The usual procedure for most procurements. A price analysis evaluates the offeror's price relative to the prices the other vendors quoted and what the general public pays for the same or similar items.
- **Cost Analysis.** A cost analysis is required whenever a price analysis cannot be conducted. This is typically for items that are not commercially available to the general public, or where price competition is otherwise lacking. A cost analysis entails reviewing and evaluating the separate cost elements and the offeror's proposed profit.

Form 8 (pg A-23) details the process for conducting an independent cost estimate.

Award to Responsible Contractors

The District should only award contracts to contractors that will perform successfully under the terms and conditions of a proposed procurement. Responsibility determination factors include whether the prospective contractor has:

- The appropriate financial, material, equipment, facility and personnel resources and expertise (or the ability to obtain them) necessary to indicate its capability to meet all contractual requirements.
- The capability to comply with the required delivery schedule considering all existing business commitments.
- A satisfactory performance record based on SAM.gov verifying that the contractor is not excluded from receiving federal contracts.
- A satisfactory record of integrity

- Legally qualified to contract with The District based on the qualifications provided in the proposal and supplied all necessary information in connection with the inquiry concerning responsibility.

Federal Requirements

All third-party contracts involving the use of federal funds are subject to applicable federal clauses and requirements. Notice of the required federal clauses, requirements, and certifications must be included at the time of the solicitation of bids or offers, as well as in the final contract or purchase order documents.

Form 4 (page A-6) and Appendix B (pg B-0) specify the process for ensuring compliance with the applicable federal requirements. Appendix B is available for public review at <http://www.mountainline.com/about-mountain-line/doing-business/>, and may be referenced in solicitations.

2.9 Prequalification Lists

The District may prequalify bidders and products in instances where critical services or equipment include exacting performance requirements and/or are anticipated to be needed on a quick-reaction basis. Prequalification procedures cannot be used to restrict full and open competition. To that end, FTA encourages, but does not require, transit agencies to document the reasons why a particular part or service is being placed on a qualified products list or a qualified bidders list.

A QPL is a listing of products that have been tested and found to have satisfied all the specified requirements. Any responsible vendor bidding on the procurement may be selected to supply the products on the list.

A QBL is a listing of bidders who offer items requiring sophisticated manufacturing and quality control procedures. These bidders must be reviewed carefully to determine if their internal controls and procedures will produce satisfactory end products. Only those bidders on the qualified bidders list may supply the products or services specified.

If a QPL or QBL is used, The District must permit potential bidders an opportunity to qualify during the solicitation period. However, The District is not required to delay an award or extend the solicitation period to afford a vendor an opportunity to demonstrate that its product meets the required standards.

2.10 Protest Procedures

A protest is a potential bidder's or contractor's remedy for correcting a perceived wrong in the procurement process. The CEO & GM will consider all protests, with the understanding that The District's or procurement staff's integrity may be at stake. If verbal objections are raised, but not resolved to the satisfaction of the objector, a written protest is required.

For all sealed bid or competitive solicitation procurements, the procurement and contracts specialist will ensure that the protest procedures detailed in this section are included in the solicitation.

The District is solely responsible for settling all contractual and administrative issues arising out of procurements, including, but not limited to, protests, source evaluation, disputes, and claims. The FTA will not substitute its judgment for the District's unless the matter is primarily a federal concern. Accordingly, direct appeals of a District protest decision are no longer applicable as outlined in Section (1)(b)(2)(a) of Chapter VII of FTA Circular 4220.1F.

Grounds for Protest

Any interested party may file a protest with the District on the grounds that:

- The District has failed to comply with its procurement procedures.
- The District has failed to comply with the terms of the solicitation in question, including the failure to adhere to the evaluation criteria set forth in the solicitation, if applicable.
- The District has issued restrictive or discriminatory specifications.
- The award is made to other than the lowest responsive and responsible bidder on formally advertised procurements.

Protest Contents

Written protests should be concise, logical, and clearly state the grounds for the protest. They must include the following information:

- Name, address, and telephone number of protestor
- Identification of the solicitation or contract number
- A detailed statement of the legal and factual grounds of the protest including copies of relevant documents
- A statement as to what relief is requested.

All protest documents should be stamped with date and time received and logged into a file folder with a copy to the Master File.

Pre-Bid and Pre-Award Protests

The District must receive protests addressing the solicitation process or the solicitation documents, including the specifications within seven calendar days of the award decision. Thereafter, any protest based on such grounds will not be considered.

Post-Award Protests

The District must receive protests addressing the approval or award, including the bid or proposal evaluation, within five days after the award decision. Thereafter, any protest based on such grounds will not be considered. The District will notify all unsuccessful bidders or proposers of its intent to award a contract at the same time it notifies the successful bidder or proposer.

Protest Response

The District will notify the protestor within three days of receipt that the protest is being considered.

Upon receipt of a timely protest regarding the solicitation process, The District will postpone the bid opening until the protest is resolved. The filing of the protest will not, however, change the date on which bids are due, unless otherwise noticed by the District.

The District will suspend contract approval upon receipt of a timely protest regarding the evaluation or award, The District will suspend contract approval or other pending action until resolution of the protest, unless the CEO & GM determines in writing that:

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

Protest Decision

The decision of the CEO & GM shall be issued in writing within fourteen (14) days of receipt of the protest, and shall be the final binding agency action. If the protest is upheld, The District will take appropriate action to correct the procurement process, such as a re-solicitation, revised evaluation, or termination of contract. If the protest is denied, The District will proceed with its procurement process.

The Federal Transit Administration will only entertain a protest that alleges The District failed to follow their protest procedures and such a protest must be filed in accordance with FTA Circular 4220.1F.

Direct appeals to the FTA of a District protest decision are no longer applicable as outlined in Section (1)(b)(2)(a) of Chapter VII of FTA Circular 4220.1F. FTA's role is limited to considering matters that are primarily a Federal concern, and it will not substitute its judgment for that of the District unless the matter is primarily a Federal concern.

Section 3: Detailed Procurement Steps

3.1 Procurement Steps for Micropurchases (\$10,000 or less)

Step 1: Determine the item and quantity to be purchased.

Step 2: Contact vendors to solicit prices, either orally or written. You may obtain multiple competitive quotes, but you are not required to do so.

Step 3: Determine the price is fair and reasonable.

- Document this determination by completing Form M1: **Micropurchase Price Determination.**

Step 4: If the purchase is over \$500, obtain a signed purchase order or contract from the CEO & GM (see Section 2.3).

Step 5: Place the order. If a purchase order or contract was obtained, transmit this document to the vendor in order to place the order.

Step 6: Submit the invoice or receipt, and Form M1, to the finance department for payment (ap@mountainline.com).

3.2 Procurement Steps for Small and Large Purchases (Over \$10,000)

Step 1: Confirm the Need and Resources

- Complete Form 1: **Procurement Request for Small and Large Purchases**

Step 2: Prepare the Technical Specifications or Scope of Work.

- Complete Form 2: **Technical Specifications/Scope of Work**

Step 3: Prepare an Independent Cost Estimate

- Complete Form 3: **Independent Cost Estimate**

Step 4: Identify required Federal Clauses, Requirements, and Certifications

- Complete Form 4: **Required Federal Clauses, Requirements, and Certifications** *(only if federal funds will be used)*

Step 5: Choose the Solicitation Method

- Complete Form 5: **Documentation of Solicitation Method**

Step 6: Execute the Solicitation

Complete *one* of the following forms:

- Form 6a: **Documented Quotations**
- Form 6b: **Sealed Bids**
- Form 6c: **Request for Proposals (RFP)**
- Form 6d: **Qualifications Based (Architecture/Engineering)**
- Form 6e: **State Cooperative Purchase**
- Form 6f: **Piggyback Procurement**
- Form 6g: **Sole Source**

Step 7: Evaluate Offers

- Complete Form 7: **Evaluation of Offers**

Step 8: Conduct a Price or Cost Analysis

- Complete Form 8: **Price or Cost Analysis**

Step 9: Award the Contract

- Complete Form 9: **Award Documentation**

Step 10: Finalize PO or Contract

- Complete Form 10: **Contract Execution and Administration**

Step 11: Contract Administration

- Follow guidance in Section 4

Section 4: Contract Administration

4.1 Roles and Responsibilities

For every procurement, the District should identify a person or persons within the agency to oversee the contract and to be responsible for ensuring that the product or services are received in full. This person(s) will need to understand the nature of the solicitation, what was agreed to as part of the negotiations, and the structure and substance of the contract. They will be responsible for the following duties throughout the performance of the contract:

- Coordinating with the vendor
- Engaging other District staff as necessary to execute the project
- Approving invoices and ensuring they are paid by the District
- Executing contract change orders or modifications, in coordination with the procurement and contracts specialist
- Handling disputes
- Documenting the progress, deliverables reached and decisions made
- Documenting areas of noncompliance and determine corrective actions with the vendor
- Maintaining key documents in the contract administration file, such as the executed contract, project deliverables, and documentation necessary to review, approve, and pay invoices.

4.2 Post-Delivery Inspection

Prior to approving invoices for materials, supplies, or equipment, the procurement and contracts specialist shall ensure that the goods delivered match what was specified in the contract or purchase order, and are in satisfactory condition.

For revenue and non-revenue vehicles, the District may conduct acceptance tests on the delivered vehicles in accordance with contractual provisions that must be completed within 15 days after delivery. These tests should identify defects that have become apparent between the time of release from the contractor and delivery to the agency. The post-delivery tests will include visual inspection and bus operations.

A vehicle that fails to pass the post-delivery tests is subject to non-acceptance. The District will record details of all defects and will notify the contractor of non-acceptance of the vehicle after the tests are completed. The defects detected during these tests will be repaired according to procedures defined in the contract with the vendor.

4.3 Documentation

For Micropurchases

The finance department will review the procurement documentation to ensure the following are included:

- Invoice, or receipt
- Certification of price reasonableness
- Any records of grant reimbursement

For Small and Large Purchases

The finance department will review the procurement documentation to ensure the following are included:

- Purchase order or contract
- Invoices or receipts
- Change orders
- Disputes
- Records of grant reimbursements

The procurement and contracts specialist will review and maintain the procurement documentation in order to ensure the following items are included:

- Procurement request
- Specifications
- Independent cost estimate
- Federal clauses and requirements
- Solicitation and justification of solicitation method
- Evaluation of offers
- Price or cost analysis
- Award recommendation
- Contract or purchase order
- Disputes
- Key correspondence with vendors
- Packing list (if any)
- Inspection reports (if any)

4.4 Change Orders and Contract Changes

The procurement and contracts specialist must evaluate any additions, deletions, or changes to an executed contract during its performance, regardless of the change order size or the original contract's amount. Changes that are within the general contract scope as it was originally contemplated, in terms of the nature of the work and the amount of effort or quantity of work, may be processed as change orders (see Form 10). A price or cost analysis must be conducted for all change orders, even for deleted work.

Changes that are determined to be outside the scope of the original contract are considered a cardinal change and will need to be treated as an independent procurement action. This includes major changes in the quantity of work, either additive or deductive. Time extensions for "term-type" contracts, in which goods or services are purchased at a predetermined price for a specific period of time, that were not priced as options under competitive conditions with the original solicitation are considered a cardinal change. However, for "completion-type" contracts that require the completion of specific deliverable items, the delivery date may be extended to allow the contractor to complete the required work specified in the contract.

4.5 Options

When considering whether to execute a contract option, a thorough review of the original contract is necessary to determine whether the change order is valid, or whether a new solicitation is needed. If a new solicitation is needed, it should be started before the current contract expires.

If the contract has an option year(s), verify and document the following:

- A fair and reasonable price for the current year. Check the contract for an escalator/de-escalator based on the consumer price index. If CPI is the only factor and the contractor is willing to extend the contract for another year at the existing price, submit written documentation supporting that decision.
- If the contractor does not agree with the price, then procurement must be resolicited.
- Whether the contractor has performed as required in the contract. If not, consider resoliciting for a contractor that can perform satisfactorily.
- The statement/scope of work for the next year. Check with all personnel that may be affected by the contract to verify completeness of the statement of work. The scope of work must be consistent with the contract and should not include scope creep or cardinal changes.

-
- Signed federal certifications for each option year.

4.6 Contingencies

A contingency may be applied to certain contracts as appropriate and with discretion. Contingencies are often advantageous in architecture and engineering and construction contracts, and can sometimes be applicable in professional services contracts. Contingencies are not typically used on materials, supplies, and equipment contracts. However, there may be instances where contingencies for these contacts is appropriate or prudent.

Staff will be thoughtful and deliberate when proposing contingency on contracts subject to board approval.

4.7 Closeout

Use the following checklist as a general guide when closing out a contract:

- Confirm that all contractual obligations have been completed
- Confirm that no claims, issues, or unresolved matters exist on the contract
- Confirm that all contractor invoices have been submitted and paid
- Communicate to contractor that the contract has been reviewed and is complete
- Verify that the contract file includes:
 - An updated copy of the contract
 - Any contract amendments
 - All original signatures for all file documents, including invoices, letters to contractor, etc.
 - All change orders

Appendix A: Forms

Form M1: Micropurchase Price Determination

This or an equivalent form must be completed by the procuring individual for all micropurchases of \$10,000 or less.

I hereby determine the price to be fair and reasonable

based on at least one of the following:

- Obtained from current price list
- Commercial market sales price from an advertisement
- Regulated rate (utility)
- Obtained from current catalog
- Personal knowledge of the item to be procured
- Similar in related industry
- Other:

I also certify that there is:

- Equitable distribution among qualified suppliers
- No splitting of this procurement to avoid competition requirements
- Avoidance of unnecessary or duplicate items

Completed by (Print Name): _____

Signature: _____

Date: _____



Form 1: Procurement Request

All purchases over \$10,000

Procurement Title: _____

Lead Department: _____

Staff Member Responsible: _____

Staff Member Accountable: _____

Type of Purchase:

- Professional Services Operations and Management Construction
- Materials, Supplies, and Equipment Architecture & Engineering
- Revenue Vehicles Non-Revenue Vehicles

Type of Contract: New Option Modification or Change Order

Anticipated Funding Source: Federal _____(type) Non-federal _____(type) Grant _____(type)

Funding Code: _____

Funding Year: _____

Estimated Cost: \$ _____

Is this Budgeted: Yes No

General Description:

Unnecessary or Duplicative Purchases

The described item or service is necessary and important to the District in fulfilling its mission to provide public transportation services, and is not duplicative of items or services currently in possession.

Scope of Work or Technical Specifications: Attach draft a scope of work or technical specifications for this procurement. This scope or specifications should clearly describe the product or services to be procured. Specifications may describe in detail the precise features of the product or services desired, may simply describe the performance of the end product or result, or some combination of the two approaches. The scope should be detailed enough to be used to seek quotes or bids.

Scope of work or technical specifications attached: Yes No

Cost Estimate: A draft cost estimate serves as a benchmark for evaluating the reasonableness of a supplier's proposed costs or prices. The estimate should be an independent assessment of what you would expect to pay for a product based on reliable sources such as publicly published price lists, recent procurements, or market surveys of other transit agency procurements. Examples of acceptable supporting documentation include screenshots of products for sale, invoices or receipts for similar products or services previously purchased, and pricing documentation from comparable transit agencies. This estimate will be finalized in Form 3.

Attached 2 – 3 price data points: Yes No

Finance Manager (Print Name): _____

Signature: _____

Date: _____

General Manager (Print Name): _____

Signature: _____

Date: _____



Form 2: Technical Specifications/Scope of Work

All purchases over \$10,000

Instructions: Complete this form and attach any additional documentation as necessary.

Procurement Title: _____

Background: A technical specification or scope of work clearly describes the product or services to be procured in terms that will permit full and open competition and meet the District's established needs. Specifications may describe in detail the precise features of the product or service desired, may simply describe the performance of the end product or result, or some combination of the two approaches.

Requirements:

- Attach a detailed list or written narrative of the requirements for the product or services being procured, including quantities, technical features or performance specifications, and delivery dates / deadlines.

Liquidated Damages: Liquidated Damages are a specific sum of money stipulated as the amount to be recovered for each day of delay in delivery or completion of the project. They are not intended to be a penalty, but instead should represent a realistic forecast of what the actual damages are likely to be. They are widely used in construction contracts and sometimes in supply and service contracts, but should be used with care as they will increase the District's costs. Contracts with liquidated damages clauses should also contain "excusable delay" clauses.

- No liquidated damages are necessary for this procurement.
- Liquidated damages are included in the technical specifications/scope of work for this procurement.

Quantities: Procurements must be limited to the amount of goods and services required for meeting the District's reasonably expected needs, including all contract options. This may be specified as a range containing both minimum and maximum quantities.

- The quantities described in the technical specifications/scope of work represent the amount of good and services required to meet the District's reasonably expected needs.

Evaluation Criteria (choose one):

- Price only
- Best Value – Provide a list of the criteria that will be used in evaluating offers, including their relative weights or order of importance. Common criteria include past performance, technical

factors, key personnel, and price. If precise weights are not given, indicate whether price is approximately equal to, less than, or greater in importance than non-price factors as a whole.

Qualifications-based

Brand Names: The use of brand names in a specification tends to restrict competition and give the impression that the contract is intended for the sole benefit of one or a few providers. If use of a brand name is necessary, the District must allow offerors an opportunity to substitute the brand name with an equal product. If it is not possible to accept an equal substitute, and competition does not exist for the brand name product, the procurement must be processed as a sole-source procurement. No liquidated damages are necessary for this procurement.

- The technical specifications or statement of work **DOES NOT** include the use of any brand names.
- The technical specifications or statement of work includes the following use(s) of brand names: _____ (i.e. 'Energizer batteries, or equivalent').

Consultants: When a consultant is used to prepare or, assist in the preparation of specifications and statements of work, care must be taken to ensure that the consultant is not biased towards particular products or firms with which they may have a business relationship or financial interest. In addition, because they would have an unfair competitive advantage, consultants should not be allowed to compete on procurements for which they prepared specifications.

- Consultants or contractors **WERE NOT USED** to assist in the development of the technical specifications or statement of work.
- The following consultant or contractor assisted in the development of the attached technical specifications or statement of work: _____

Completed by (Print Name): _____

Signed: _____

Date: _____



Form 3: Independent Cost Estimate (ICE)

All purchases over \$10,000

Procurement Title: _____

Instructions: Complete this form and attach any additional documentation as necessary.

Background: Before receiving bids or proposals, an independent cost estimate must be completed for every procurement action whose value exceeds the micro-purchase threshold, including contract change orders. An ICE serves as a benchmark for evaluating the reasonableness of a supplier's proposed costs or prices. The ICE should be an independent assessment of what the District would expect to pay for a product based on a reliable source such as publicly published price lists, recent procurements, or a market survey of other transit agency procurements.

Type of Contract: New Option Modification or Change Order

Method of Cost Estimate:

- Publicly published price lists
- Recent procurements
- Outreach or market survey of other transit agency procurements
- Other

Outside Parties: If any outside party assists in developing the ICE, appropriate steps must be taken to ensure that organizational conflicts of interests are avoided and that the outside party does not obtain a competitive advantage from their advance knowledge of the cost estimate.

- No outside parties** provided assistance in the development of this ICE.
- The following individuals or firms provided assistance in the development of this ICE, and steps were taken to avoid an organizational conflict of interest (attach description):

Documentation:

- Attach a summary analysis of price quotes gathered from research.

Cost Estimate: \$ _____ (low) to \$ _____ (high) per unit / total cost

Completed by (Print Name): _____

Signed: _____

Date: _____



Form 4: Required Federal Clauses, Requirements, and Certifications

All purchases over \$10,000

Procurement Title: _____

Estimated Contract Total: \$ _____

Instructions: Complete this form and attach any additional documentation as necessary.

Background: All third-party contracts involving the use of federal funds are subject to applicable federal clauses, requirements, and certifications. In addition, the State of Montana has requirements that apply to some types of contracts. The successful contractor is expected to be familiar with and meet all stated or otherwise applicable requirements.

The full text of all clauses, requirements and certifications should be obtained from the most recent version of MUTD's document, 'Federal Clauses and Certifications for FTA Funded Procurements' (Appendix B), or from "Procurement Pro," an online procurement management system produced by National RTAP.

In addition, the District's tool 'MUTD Federal Clauses and Certifications Tool.xlsx', may be used to complete this form.

Type of Purchase: Professional Services Architecture & Engineering Operations and Management
 Revenue Vehicles Non-Revenue Vehicles Construction Materials, Supplies, and Equipment

Applicability:

- Attach a checklist indicating which federal clauses, requirements, and certifications apply to this procurement.

Notice:

- Remember to provide notice of the applicable federal clauses, requirements, and certifications in the solicitation document, by including the full text or a link to http://www.mountainline.com/wp-content/uploads/2017/07/MUTD-Federal-Clauses-and-Certifications_Master_July-2017.pdf (see Form 6)

State of Montana Requirements:

For public works contracts (construction and non-construction services) greater than \$25,000 (18-2-4, MCA), selected contractors must:

- Unless superseded by Federal Davis Bacon wage rates, pay the standard prevailing rate of wages that is in effect and applicable to the district in which the work is being performed (current rates found at <http://erd.dli.mt.gov/labor-standards/state-prevailing-wage-rates>);
- Post a copy of the applicable prevailing wage rates in a prominent and accessible site at the project location;
- Maintain payroll records capable of certification for at least three years after completion of the work;

- If the term of the contract is greater than 30 months, increase the standard prevailing rate of wages by 3% every 12 months after the contract award date and apply the adjustment every 12 months for the duration of the contract; and
- Give preference to the employment of bona-fide Montana residents in the performance of work.

For construction contracts over \$50,000 (18-2-201, MCA):

- Performance Bond – contractors shall execute a bond to secure performance on the contract in the amount of 100% of the contract price.
- Payment Bond – contractors shall execute a bond to secure payment of workers, subcontractors, and suppliers in the amount of 100% of the contract price.

Requirements:

- Attach the full text of the required clauses and requirements that will apply to the contract or purchase order.
- Attach the federal certifications that apply to this procurement (not executed)

Completed by (Print Name): _____

Signed: _____

Date: _____



Form 5: Documentation of Solicitation Method

All purchases over \$10,000

Procurement Title: _____

Estimated Contract Total: \$ _____

Description of Solicitation Methods:

<u>Solicitation Method</u>	<u>Description</u>	<u>Applicability</u>	<u>Form</u>	<u>Selection</u>
Documented Quotations	Relatively simple process in which written or informal quotes are obtained from an adequate number of sources and evaluated on price.	\$80,000 or less	6a	<input type="checkbox"/>
Sealed Bids	A competitive process in which proposals are evaluated on price. Ideal for the procurement of materials, equipment, or supplies, where specifications can be clearly, adequately, and realistically defined.	Required for contracts > \$80,000	6b	<input type="checkbox"/>
Request for Proposals (RFP)	A competitive process in which proposals are evaluated on a combination of price and other factors. Ideal for large and/or complex procurements where the use of sealed bid procedures would be inappropriate.	Required for contracts > \$80,000	6c	<input type="checkbox"/>
Qualifications Based	A competitive process in which the District evaluates proposals based on qualifications, irrespective of price.	Required for A&E contracts, regardless of size	6d	<input type="checkbox"/>
State Cooperative Purchase	Simplified process to purchase vehicles or other goods through a state price agreement. Federal law allows purchases from other state lists.	Any purchase	6e	<input type="checkbox"/>
Piggyback Procurement	Use of contract options approved by other government entities for goods/services.	Any purchase	6f	<input type="checkbox"/>
Sole Source	Used when full and open competition is not possible.	Any purchase	6g	<input type="checkbox"/>

Documentation:

Attach additional documentation as needed.

Completed by (Print Name): _____

Signed: _____

Date: _____



Form 6a: Documented Quotations

Purchases \$80,000 or less

Procurement Title: _____

Instructions: Complete this form and attach any additional documentation as necessary.

Background: Documented quotations that are evaluated on price and obtained informally from vendors through written or oral means. FTA recommends soliciting at least three firms to ensure an adequate level of competition.

Solicitation Content: The vendor shall be made to clearly understand the technical specifications or scope of work (Form 2), and the applicable federal requirements (Form 4) in the course of publishing written or oral solicitations.

Splitting:

This procurement was not divided or split to avoid competition requirements.

Geographic Preferences:

Care was taken to avoid preferences for offerors based on geographic location.

Small and Minority Businesses, Women's Enterprises, and Labor Surplus Area Firms (over \$25,000): All necessary and affirmative steps must be taken to assure that these types of firms are used when possible. Steps must include:

- Placing qualified small and minority businesses and women's business enterprises on solicitation lists.
- Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources.
- Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises.
- Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises.
- Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.
- Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in this section.

Firms Solicited:

Firm	Date	Method	SMB/WE/LSAF?	Quote Received?

Completed by (Print Name): _____

Signed: _____

Date: _____



Form 6b: Sealed Bids

Sealed Bids or Request for Proposals required for purchases over \$80,000

Procurement Title: _____

Instructions: Complete this form and attach any additional documentation as necessary.

Background: Sealed bidding is a competitive process in which a fixed-price contract is awarded to the responsible bidder whose bid meets the technical requirements at the lowest price. This procurement method does not allow for the consideration of non-price factors that would enable an agency to pay a premium for quality. Discussions with bidders after bids have been submitted are expected to be unnecessary.

Applicability: Sealed bidding is allowed for procurements of any size, but the relative complexity of the process must be weighed against the expected benefits. The items listed below describe the circumstances indicating that a sealed bid process may be the most appropriate procurement method. Check all that apply to this procurement.

- A complete, adequate, precise, and realistic specification or purchase description is available.
- Two or more responsible bidders are willing and able to compete effectively for the business.
- The procurement generally lends itself to a firm fixed price contract.
- The successful bidder can be selected based on price and price-related factors such as transportation costs, life cycle costs, and expected discounts.

Solicitation Content: It is critical that the solicitation defines the product or service completely, clearly, accurately, and unambiguously as possible. At a minimum, each solicitation document should include the following elements:

- Solicitation name or number for reference
- Contact information
- Technical Specifications or Scope of Work (see Form 2)
- Federal Clauses, Requirements, and Certifications (see Form 4)
- Protest Procedures (see Section 2.8)
- Bid Form or Submittal Requirements
- Date, time, and place bids are to be received (online submission is acceptable)
- Space for bidders to acknowledge any amendments to the solicitation
- Space for the firm to sign and date the bid

Bid Security: Bid security is required for all bids over \$80,000, but may be required for smaller contracts. In accordance with MCA 18-1-201- through 2016, each bidder must provide a bid bond or other security in the amount

of 10% of the bid price to protect and indemnify the District against the failure or refusal of the bidder to enter into the contract.

Pre-Bid Conference: Pre-bid conferences with prospective bidders are not required, but can be a time-effective way to equitably convey information, particularly for complex solicitations or those with significant interest from vendors.

- A pre-bid conference is scheduled to occur at the District's offices, 1221 Shakespeare St, on the following date and time: _____

Public Notice: For procurements over \$80,000, the District must publicly advertise the procurement to notify prospective offerors. Outreach through diverse media such as local newspapers, trade publications, and commercial procurement services may be the most cost-effective way to increase competition. In accordance with MCA 7-1-4127, a public notice must be published for a minimum of two consecutive weeks in the local newspaper. The final published notice must appear at least 3 days prior to the RFP due date. The published notice shall contain: a brief statement about the procurement for which proposals are sought, where complete proposal details may be obtained if not provided in the published notice, the contact information for the employee responsible for answering questions about the proposal, any specific requirements for contract or performance security, the initial contract term and any renewal periods, the address where proposals are to be submitted, and the due date and time for receipt of proposals.

- Attach records of public notice of this solicitation.

Solicitation List: Firms who have expressed interest in participating in the District's upcoming procurements, or firms the District believes are capable of fulfilling the requirements of a particular procurement, should be made aware of appropriate opportunities. Efforts to develop a robust solicitation list can often determine the success of a procurement.

- Attach a list of all firms and individuals that were directly solicited for this procurement, including the date of the solicitation and identifying information on the firm/individual (location and contact person.)

Protests:

- For all sealed bid or competitive solicitation procurements, the procurement and contracts specialist will ensure that the District's protest procedures (Section 2.8) are included in the solicitation.

Amendments/Addenda: The original solicitation can be amended, including deadline extensions, provided that appropriate public notice of the amendment is published. Firms who were directly solicited due to their expressed interest in the procurement should be made aware of any amendments.

- Amendments to this solicitation were released on the following dates:
_____.

Geographic Preferences:

- Care was taken to avoid actions that would give preference to offerors based on geographic location.

Small and Minority Businesses, Women’s Enterprises, and Labor Surplus Area Firms (over \$25,000): All necessary and affirmative steps must be taken to assure that these types of firms are used when possible. Steps must include:

- Placing qualified small and minority businesses and women's business enterprises on solicitation lists.
- Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources.
- Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises.
- Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises.
- Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.
- Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in this section.

Completed by (Print Name): _____

Signed: _____

Date: _____



Form 6c: Request for Proposals

Sealed Bids or Request for Proposals required for purchases over \$80,000

Procurement Title: _____

Instructions: Complete this form and attach any additional documentation as necessary.

Background: A request for proposals is a competitive process that chooses a winning proposal on a basis of factors other than price alone. In addition, the RFP process provides an opportunity discuss or negotiate the price, specifications, requirements, or other important aspects of the contract.

Applicability: An RFP is allowed for procurements of any size, but the relative complexity of the process must be weighed against the expected benefits. The items listed below describe circumstances that indicate an RFP may be the most appropriate procurement method. Check all that apply to this procurement:

- The technical specifications or scope work are significantly performance based, allowing offerors discretion in achieving the end result.
- There is a need for discussions or negotiations.
- There is significant risk of unsuccessful contract performance.
- The procurement generally lends itself to a firm fixed price contract.
- The successful bidder can be selected on the basis of price and price-related factors such as transportation costs, life cycle costs, and expected discounts.

Solicitation Content: An RFP typically includes all the elements of a sealed bid, as well as the evaluation factors to be used and their relative importance. At a minimum, each solicitation document should include the following elements:

- Solicitation name or number for reference
- Contact information
- Technical Specifications or Scope of Work (see Form 2)
- Federal Clauses, Requirements, and Certifications (see Form 4)
- Protest Procedures (see Section 2.8)
- Proposal Form(s) or Submittal Requirements
- Date, time, and place proposals are to be received (online submission is acceptable)
- Space for offerors to acknowledge any amendments to the solicitation
- Space for the firm to sign and date the bid

Bid Security: Bid security is required for all proposals over \$80,000, but may be required for smaller contracts. In accordance with MCA 18-1-201- through 2016, each bidder must provide a bid bond or other security in the amount of 10% of the bid price to protect and indemnify the District against the failure or refusal of the bidder to enter the contract.

Public Notice: For procurements over \$80,000, the District must publicly advertise the procurement to notify prospective offerors. Outreach through diverse media such as local newspapers, trade publications, and commercial procurement services may be the most cost-effective way to increase competition. In accordance with MCA 7-1-4127, a public notice must be published for a minimum of two consecutive weeks in the local newspaper. The final published notice must appear at least 3 days prior to the RFP due date. The published notice shall contain: a brief statement about the procurement for which proposals are sought, where complete proposal details may be obtained if not provided in the published notice, the contact information for the employee responsible for answering questions about the proposal, any specific requirements for contract or performance security, the initial contract term and any renewal periods, the address where proposals are to be submitted, and the due date and time for receipt of proposals.

Attach records of public notice of this solicitation.

Solicitation List: Firms that have expressed interest in participating in the District's upcoming procurements, or firms that the District believes can fulfill the requirements of a particular procurement, should be made aware of appropriate opportunities. Efforts to develop a robust solicitation list can often determine the success of a procurement.

Attach a list of all firms and individuals that were directly solicited for this procurement, including the date of the solicitation and identifying information on the firm/individual (location and contact person)

Pre-Proposal Conference: Pre-proposal conferences with prospective bidders are not required but can be a time-effective way to equitably convey information, particularly for complex solicitations or those with significant interest from vendors.

A pre-bid conference is scheduled to occur at the District's offices, 1221 Shakespeare St, on the following date and time: _____

Protests:

For all sealed bid or competitive solicitation procurements, the contract specialist will ensure that the District's protest procedures (Section 2.8) are included in the solicitation.

Amendments/Addenda: The original solicitation can be amended, including deadline extensions, as long as appropriate public notice of the amendment is made. Firms that were directly solicited due to their expressed interest in the procurement should be made aware of any amendments.

Amendments to this solicitation were released on the following dates: _____.

Equal Access to Information: A key feature of competitive solicitations is equal access to information. If, during the course the of a solicitation, information is conveyed to one firm that may give them a competitive advantage, that information should be made available to all offerors through a publicly noticed amendment.

- An amendment was released on the following date that summarized conversations with potential offerors in which information was conveyed that may give one offeror a competitive advantage:

Discussions / Negotiations: Discussions with offerors are not required but can be a valuable way to obtain additional information and clarifications from offerors. If discussions are held, they must be held with all offerors within the competitive range. The competitive range is determined by taking into account the evaluation criteria and selecting those offerors whose proposals have a reasonable chance of being selected for an award.

- An award will be made without holding discussions with offerors.
 Discussions were held with all offerors within the competitive range.
 Attach a rationale / explanation of any offerors that were excluded from the competitive range.

Geographic Preferences:

- Care was taken to avoid actions that would give preference to offerors based on their geographic location

Small and Minority Businesses, Women’s Enterprises, and Labor Surplus Area Firms (over \$25,000): All necessary and affirmative steps must be taken to assure that these types of firms are used when possible. Steps must include:

- Placing qualified small and minority businesses and women's business enterprises on solicitation lists.
 Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources.
 Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises.
 Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises.
 Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.
 Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in this section.

Completed by (Print Name): _____

Signed: _____

Date: _____



Form 6d: Qualifications Based (Architecture and Engineering)
Required for A&E Contracts

Procurement Title: _____

Instructions: Complete this form and attach any additional documentation as necessary.

Background: A qualifications-based procurement method is defined by its use of an offeror's qualifications to determine a contract award, excluding price as an evaluation factor. The Federal Transit Administration requires using this procurement method for A&E services that directly support or are directly connected to the construction, alteration, or repair of real property (exceptions are allowed for sole-source procurements). This procurement method may not be used to acquire other types of products or services.

Applicability: Using a qualifications-based procurement method depends on the actual services to be performed, not the firm providing the service. This includes the following types of A&E services when they are directly connected to construction:

- Program management
- Architectural engineering
- Construction management
- Feasibility studies
- Preliminary engineering
- Architectural design
- Engineering design
- Surveying
- Mapping

Solicitation Content: At a minimum, each solicitation document should include the following elements:

- Technical Specifications or Scope of Work (see Form 2)
- Federal Clauses, Requirements, and Certifications (see Form 4)
- Protest Procedures (see Section 4.4)
- Proposal Form(s) or Submittal Requirements
- Date, time, and place proposals are to be received (online submission is acceptable)
- Place for offerors to acknowledge any amendments to the solicitation
- Place for the firm to sign and date the bid

Negotiations: Negotiations are first conducted with only the most qualified offeror, as determined by process detailed in the solicitation. Only after failing to agree on a fair and reasonable price may negotiations be conducted with the next most qualified offeror. Then, if necessary, negotiations with successive offerors in descending order may be conducted until contract award can be made to the offeror whose price the recipient believes is fair and reasonable.

Small and Minority Businesses, Women's Enterprises, and Labor Surplus Area Firms (over \$25,000): All necessary and affirmative steps must be taken to assure that these types of firms are used when possible. Steps must include:

- Placing qualified small and minority businesses and women's business enterprises on solicitation lists.
- Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources.
- Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises.
- Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises.
- Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.
- Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in this section.

Completed by (Print Name): _____

Signed: _____

Date: _____



Form 6e: State Cooperative Purchase

Any Purchase

Procurement Title: _____

Instructions: Complete this form and attach any additional documentation as necessary.

Background: To foster greater economy and efficiency, the District is encouraged to use state purchasing schedules for the procurement or use of common goods and services. Montana's State Procurement Bureau, <https://sfsd.mt.gov/SPB>, regularly procures a wide variety of goods and services on behalf of state and local governmental units.

Applicability: State purchasing schedules may be used for purchases of any type or size.

Solicitation Content: Instead of issuing a solicitation, the District will review the available state contracts for products or services that meet its technical specifications or scope of work (Form 2).

- The product or service to be procured meets the District's desired technical specifications or scope of work.
- Attach a copy of the state's solicitation document and resulting contract.

Review the State's Procurement: When the District uses a state purchasing schedule, it adopts the procurement activities undertaken by the state as its own. For this reason, the procurement documentation and resulting contract must be thoroughly reviewed to ensure that the state complied with the Federal Transit Administration's standards for full and open competition. Certify that the state's procurement meets the following criteria:

- Clear, accurate, and complete specifications
- An adequate number of firms were solicited
- No evidence of an unfair competitive advantage given to one firm or individual
- No geographic preferences
- No restrictive use of brand names

Quantities: Unlike standard procurement methods that must be restricted to a defined minimum and maximum quantity, state schedules may be open-ended if such a structure is permitted by state law.

- This procurement has defined quantities.
- This procurement does not have defined quantities.

Federal Requirements: A state may follow the same policies and procedures it uses for procurements from its non-federal funds, so long as it ensures that every purchase order or similar contract includes any clauses required by federal law.

- Attach an analysis that shows the federal requirements, clauses, and certifications that must be added to the District's purchase order or contract.

Small and Minority Businesses, Women's Enterprises, and Labor Surplus Area Firms (over \$25,000): All necessary and affirmative steps must be taken to assure that these types of firms are used when possible. Steps must include:

- Placing qualified small and minority businesses and women's business enterprises on solicitation lists.
- Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources.
- Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises.
- Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises.
- Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.
- Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in this section.

Completed by (Print Name): _____

Signed: _____

Date: _____



Form 6f: Piggyback Procurement

Any Purchase

Procurement Title: _____

Instructions: Complete this form and attach any additional documentation as necessary.

Background: Piggybacking is the post-award use of a contractual document/process that allows someone who was not contemplated in the original procurement to purchase the same supplies or equipment through that original document/process. Typically, this involves working with another transit agency.

Applicability: Piggyback procurements may be used for purchases of any type or size.

Solicitation Content: Instead of issuing a solicitation, the District will review the contract and solicitation documents from the cooperating agency.

- The product or service to be procured meets the District's desired technical specifications or scope of work
- Attach a copy of the State's solicitation document and resulting contract

Review the Piggyback Procurement: When the District uses a piggyback procurement, it adopts as its own the procurement activities undertaken by the cooperating agency. For this reason, the procurement documentation and resulting contract must be thoroughly reviewed to ensure compliance with the FTA's standards for full and open competition. Use the following checklist to conduct your review. If the answer to any item is 'No', then it is not advisable to continue with the piggyback procurement.

ITEM TO REVIEW	YES	NO
1. Have you obtained a copy of the contract and the solicitation document, including the specifications and any Buy America Pre-award or Post-Delivery audits?		
2. Does the solicitation and contract contain an express "assignability" clause that provides for the assignment of all or part of the specified deliverables?		
3. Did the Contractor submit the "certifications" required by Federal regulations? <i>Compare to Form 4.</i>		
4. Does the contract contain the clauses required by Federal regulations? <i>Compare to Form 4.</i>		
5. Were the piggybacking quantities included in the original solicitation; i.e., were they in the original bid and were they evaluated as part of the contract award decision?		

6. If this is an indefinite quantity contract, did the original solicitation and resultant contract contain both a minimum and maximum quantity, and did these represent the reasonably foreseeable needs of the parties to the contract?		
7. If this piggybacking action represents the exercise of an option in the contract, is the option provision still valid or has it expired?		
8. Does your State law allow for the procedures used by the original contracting agency: e.g., negotiations vs. sealed bids?		
9. Was a cost or price analysis performed by the original contracting agency documenting the reasonableness of the price? <i>Include a copy of the analysis in your files with Form 8.</i>		
10. Does the contract term comply with the five-year term limit established by FTA?		
11. Was there a proper evaluation of the bids or proposals? <i>Include a copy of the analysis in your files with Form 7.</i>		
12. If you will require changes to the vehicles (deliverables), are they “within the scope” of the contract or are they “cardinal changes”? <i>See BPPM Section 5.1.1</i>		

Documentation:

- Attach any additional documentation as necessary to support the review of the piggyback procurement

Small and Minority Businesses, Women’s Enterprises, and Labor Surplus Area Firms (over \$25,000): All necessary and affirmative steps must be taken to assure that these types of firms are used when possible. Steps must include:

- Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
- Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
- Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in this section.

Completed by (Print Name): _____

Signed: _____

Date: _____

Note: This worksheet is based upon the policies and guidance expressed in (a) the FTA Administrator's "Dear Colleague" letter of October 1, 1998, (b) the *Best Practices Procurement Manual*, Section 6.3.3—*Joint Procurements of Rolling Stock and "Piggybacking,"* and (c) FTA Circular 4220.1F.



Form 6g: Sole Source
Any Purchase

Procurement Title: _____

Instructions: Complete this form and attach any additional documentation as necessary.

Background: A sole source procurement is a noncompetitive method that solicits offers from only one source. Limited circumstances justify its use and these procurements are subject to closer scrutiny.

Applicability: At least one of the following circumstances must be present to use a sole source method:

- Unique or Innovative Concept.** The offeror demonstrates a unique or innovative concept or capability not available from another source. Unique or innovative concept means a new, novel, or changed concept, approach, or method that is the product of original thinking, and has not been available to the recipient from another source in the past.
- Patents or Restricted Data Rights.** Patent or data rights restrictions preclude competition.
- Substantial Duplication Costs.** In the case of a follow-on contract for the continued development or production of highly specialized equipment and major components thereof, when it is likely that award to another contractor would result in substantial duplication of costs that are not expected to be recovered through competition.
- Unacceptable Delay.** In the case of a follow-on contract for the continued development or production of highly specialized equipment and major components thereof, when it is likely that award to another contractor would result in unacceptable delays in fulfilling the recipient's needs. Lack of advance planning, delays due to a shortage of personnel or incompetent personnel, and insufficient funds due to budgeting constraints may not be sufficient justification for classifying a needed procurement action as urgent or compelling.
- Single bid or proposal.** Receiving only one bid or proposal does not indicate competition was inadequate. The specification should be reviewed and firms who did not submit should be contacted. If the specification was overly restrictive, or other factors within the District's control were responsible for the lack of response, then competition was inadequate and the District must re-solicit or justify a sole-source procurement. Otherwise, the District may award the procurement as a competitive award.

Justification: A sole source analysis must be conducted to justify the use of this method.

- Attach a detailed justification for why a sole source award is being used, specifically referencing the applicable circumstances from above.

Small and Minority Businesses, Women's Enterprises, and Labor Surplus Area Firms (over \$25,000): All necessary and affirmative steps must be taken to assure that these types of firms are used when possible. Steps must include:

- Placing qualified small and minority businesses and women's business enterprises on solicitation lists.
- Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources.
- Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises.
- Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises.
- Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.
- Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in this section.

Completed by (Print Name): _____

Signed: _____

Date: _____



Form 7: Evaluation of Offers
All purchases over \$10,000

Procurement Title: _____

Instructions: Complete this form and attach any additional documentation as necessary.

Background: Once the solicitation has been executed, regardless of the method, all bids or proposals received shall be evaluated with respect to the criteria established in the solicitation to recommend an award.

Responsibility: The District shall award only responsible contractors possessing the ability to successfully perform the procurement’s terms and conditions. Consideration shall be given to contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. A prospective offeror that has recently been seriously deficient in contract performance is presumed to be non-responsible, unless it is determined that the circumstances were beyond the offeror’s control, or the offeror has taken appropriate corrective action.

Responsiveness: The proposal must be responsive to the technical specifications or scope of work included in the solicitation. For sealed bids or requests for proposals, this includes conforming to the submittal requirements in the solicitation, including the acknowledgement of addenda.

Evaluation Criteria (choose one):

- Price
- Best Value – Attach a copy of the evaluation criteria listed in the solicitation (from Form 2).
- Qualifications-Based

Offers Received: Complete an entry in the table below for each offer received, or attach a similar review of offers received.

Number of Offers Received: _____

Attach an original copy of each offer received

Firm	Responsibility	Responsiveness	Price	Composite Score or Rank
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No		

	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No		
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No		

Sufficient Competition: While efforts should be made to maximize the number of offers received, two or more responsive offers from responsible offerors shall be deemed acceptable.

Two (2) or more responsive offerors were received from responsible offerors

Competitive Range: If interviews are conducted, conduct negotiations only with offerors determined to be within the competitive range. In assessing the competitive range, competition remains an important objective and the effort in determining the competitive range is to preserve those proposals that stand a reasonable chance of being found acceptable; not to unduly limit competition by eliminating viable offerors (see FTA Best Practices Procurement and Lessons Learned Manual, pgs. 86-89).

Attach a summary of the competitive range determination (if applicable)

Award Recommendation: Based on the evaluation documented here, a contract award is recommended to the following firm, contingent on a determination of price reasonableness (Form 8) and a review of the Government Services Administration excluded parties list:

- _____ (name of firm)

Completed by (Print Name): _____

Signed: _____

Date: _____



Form 8: Price or Cost Analysis

All purchases over \$10,000

Procurement Title: _____

Instructions: Complete the steps listed below for a price analysis or cost analysis and attach any additional documentation as necessary.

Background: All procurements must be evaluated to determine whether the price is fair and reasonable. The extent of the analysis depends on the value and nature of the contract. The analysis begins with an independent cost estimate performed before receiving the contractor's proposal (see Form 3).

Method Selection: Select whether a price analysis or cost analysis will be performed.

Price Analysis

The most common procurement procedure. A price analysis can be performed if any of the following pricing information is available, relative to the item being procured:

- Comparisons with other competitive proposals
- Previous contracts that were competitively procured
- Catalog or market prices
- Historical prices

Note: It is not necessary for competing products be exactly identical to the item being procured, but the products' and their price differences must be compared in light of those varying capabilities.

Cost analysis

A cost analysis is necessary whenever 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.

Steps:

1. Solicit a detailed cost breakdown from the offerors that includes the following elements:
 - Direct Labor: Indicate each labor classification, the hours for that classification, the related hourly rate for that classification and the dollar total for that classification.
 - Overhead: Indicate the total overhead or overhead rate that is applied.

- Direct Expenses: List the direct expenses with a brief description and purchase price for the item. Indicate the total of these direct expenses.
- Fixed Fee (Profit): Indicate the fixed fee, or profit.

- Total Cost: The total project cost should equal labor + overhead + direct expenses + fixed fee.
2. Verify the reasonableness of the proposed rates as applicable to the contract.
- Ensure that no costs are proposed as direct charges that should be recovered by the overhead charge.

Evaluating the materials costs would normally be accomplished by reviewing the prices quoted competitively to the contractor, or prices quoted in catalogues for items sold to the general public.

Documentation:

- Attach a written summary of the price analysis or cost analysis to this form.

Determination:

- The price offered is determined to be fair and reasonable.

Completed by (Print Name): _____

Signed: _____

Date: _____



Form 9: Award Documentation

All purchases over \$10,000

Procurement Title: _____

Instructions: Complete this form and attach any additional documentation as necessary.

Background: All procurement documentation must be in order prior to executing a contract award.

Vendor: _____

Contract Price: \$_____

Federal Excluded Parties List:

- Attach documentation from sam.gov indicating that the above firm is **NOT** on the Government Services Administration List of Excluded Parties

Award Justification:

- Attach a brief written summary of the decision to award a contract:
- Why the goods or services are needed by the agency.
 - Description of the goods or services to be purchased.
 - Description of the vendor, including responsibility determination.
 - Summary and justification of the solicitation method.
 - Summary of the offers received.

Purchase Order or Contract: A purchase order is a simple contract. When more complex terms are required, a contract can be used, in consultation with the District's legal staff. In either case, the basic elements of all purchase orders or contracts are listed below:

- Standard contract terms **or** a purchase order form (obtain from the finance department)
- Technical specifications or scope of work
- Quote or proposal received from the vendor in response to the technical specifications or scope of work
- Federal requirements and contract clauses
- Signed federal certifications

- Attach a copy of the draft purchase order or contract, including all attachments.

Prohibited Contract Types: The following contract types are prohibited:

- **Cost-Plus a Percentage of Cost** – Cost plus a percentage of cost, or cost plus a percentage of construction cost, contracts are prohibited by federal law because the contractor’s profit increases in proportion to dollars spent and could result in a positive incentive to inefficiency.

A cost-plus percentage of cost contract will not be used.

Restricted Contract Types: The following contract types are restricted:

- **Cost-Plus-Fixed Fee.** The Federal Transit Administration discourages using this contract. Though it may be used for indefinite delivery indefinite quantity contracts, where there are “uncertainties involved in contract performance that do not permit costs to be estimated with sufficient accuracy to use any type of fixed price contract.” If an IDIQ contract is used, it should include fixed rates for each labor category the contractor expects to need in pricing individual tasks.
- **Time and Materials** – When contractors are paid for time and materials, one or both of which result in profit, it creates a disincentive for the contractor to complete the contract in a timely and efficient manner because their profit increases with the amount of time and/or materials expended. However, a T&M contract is permitted if: (1) no other type of contract is suitable; and (2) the contract specifies a ceiling price that the contractor will not exceed except at its own risk.

Neither of the above restricted contract types will be used.

A **CPFF** contract will be used. Attach a memo explaining the rationale and justification for using this contract type.

A **T&M** contract will be used. Attach a memo explaining the rationale and justification for using this contract type.

Board Approval: The District’s board of directors must approve purchases greater than \$80,000, or purchases that are strategic decisions.

A procurement is a strategic decision if it satisfies any of the following criteria:

Establishes or materially changes agency policy, service standards, or operational practices.

Establishes a vendor, technology, or service approach likely to influence future procurements.

The chief executive officer and general manager determines that the contract warrants board approval due to its strategic importance.

- This procurement **does not** require board approval.

- This procurement is scheduled for board approval on: _____ (date).

_____ (name of firm)

Completed by (Print Name): _____

Signed: _____

Date: _____



Form 10: Contract Execution and Administration
All purchases over \$10,000

Procurement Title: _____

Instructions: Complete this form and attach any additional documentation as necessary.

Background: All procurement documentation must be in order prior to executing a contract award.

Vendor: _____

Contract Amount: \$ _____

Attach a copy of the fully executed contract

Contract Administration:

Identify the person(s) responsible for overseeing performance of the contract and approving invoices:

1. _____

2. _____

Project Documentation:

Identify the location on MUTD's internal file server where files related to the implementation of this project are stored:

Invoices:

Identify the location on MUTD's internal file server where invoices related to the implementation of this project are stored:

Completed by (Print Name): _____

Signed: _____

Date: _____



Form 11: Change Order

All purchases over \$10,000

1. Company or Contractor:	2. Project Name:
3. Effective Date of Original Contract: _____	4. Change Order Number: _____
5. Effective Date: _____	
6. Description of Change:	
7. Budget Changes: Original Contract Amount: \$ _____ Change Order Amount: \$ _____ Revised Contract Amount: \$ _____	8. Change Type: <input type="checkbox"/> Addition <input type="checkbox"/> Reduction
9. Reason for Change:	
10. Does the change represent work that the contractor was not required to perform in the original contract scope? <input type="checkbox"/> Yes <input type="checkbox"/> No	11. Is the change within the scope of the original contract? <input type="checkbox"/> Yes <input type="checkbox"/> No

--	--

12. Attachments:

The Missoula Urban Transportation District and _____ (*company/contractor name*) do hereby agree to the above changes to the original contract, incorporating into this agreement the original contract as well those documents listed in Section 10 and attached herein:

MISSOULA URBAN TRANSPORTATION DISTRICT

Signed: _____

Name: _____

Title: _____

Date: _____

(Company / Contractor Name)

Signed: _____

Name: _____

Title: _____

Date: _____

Appendix B: Federal Clauses and Certifications for Federal Transit Administration (FTA) Funded Procurements



Federal Clauses and Certifications
for
Federal Transit Administration (FTA) Funded
Procurements

**ALL CLAUSES & CERTIFICATIONS HEREINAFTER ARE PROVIDED FOR
PROCUREMENTS (AS APPLICABLE)
INVOLVING FTA ASSISTANCE,
IN COMPLIANCE WITH FTA REGULATIONS,
AND MAINTAINED FOR FTA REVIEWS**

Date Last Updated: May 2026

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Third Party Contract Provisions

These requirements do not apply to micro-purchases (\$10,000 or less), except for construction contracts over \$2,000

No Government Obligations to Third Parties

All Contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000)

(1) The recipient and contractor acknowledge and agree that, notwithstanding any concurrence by the US Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the US Government, the US Government is not a party to this contract and shall not be subject to any obligations or liabilities to the recipient, the contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

(2) Contractor agrees to include the above clause in each subcontract financed in whole or in part with FTA assistance. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

Program fraud and false or fraudulent statements and related acts

All Contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000)

(1) Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 USC 3801 et seq. and USDOT regulations, "Program Fraud Civil Remedies," 49 CFR 31, apply to its actions pertaining to this project. Upon execution of the underlying contract, contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submittal, or certification, the US Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act (1986) on contractor to the extent the US Government deems appropriate.

(2) If contractor makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submittal, or certification to the US Government under a contract connected with a project that is financed in whole or in part with FTA assistance under the authority of 49 USC 5307, the Government reserves the right to impose the penalties of 18 USC 1001 and 49 USC 5307(n)(1) on contractor, to the extent the US Government deems appropriate.

(3) Contractor shall include the above two clauses in each subcontract financed in whole or in part with FTA assistance. The clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

Access to Records and Reports

As shown below. These requirements do not apply to micro-purchases (\$10,000 or less, except for construction contracts over \$2,000)

The following access to records requirements apply to this Contract:

1) Where the purchaser is not a State but a local government and is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 CFR 18.36(i), contractor shall provide the purchaser, the FTA, the US Comptroller General or their authorized representatives access to any books, documents, papers and contractor records which are pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor shall also, pursuant to 49 CFR 633.17, provide authorized FTA representatives, including any PMO contractor, access to contractor's records and construction sites pertaining to a capital project, defined at 49 USC 5302(a)1, which is receiving FTA assistance through the programs described at 49 USC 5307, 5309 or 5311.

2) Where the purchaser is a State and is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 CFR 633.17, contractor shall provide the purchaser, authorized FTA representatives, including any PMO Contractor, access to contractor's records and construction sites pertaining to a capital project, defined at 49 USC 5302(a)1, which receives FTA assistance through the programs described at 49 USC 5307, 5309 or 5311. By definition, a capital project excludes contracts of less than the simplified acquisition threshold currently set at \$100,000.

3) Where the purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non-profit organization and is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 CFR 19.48, contractor shall provide the purchaser, the FTA, the US Comptroller General or their authorized representatives, access to any books, documents, papers and record of the contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.

4) Where a purchaser which is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 USC 5325(a) enters into a contract for a capital project or improvement (defined at 49 USC 5302(a)1) through other than competitive bidding, contractor shall make available records related to the contract to the purchaser, the Secretary of USDOT and the US Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.

5) Contractor shall permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

6) Contractor shall maintain all books, records, accounts and reports required under this contract for a period of not less than three (3) years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case contractor agrees to maintain same until the recipient, FTA Administrator, US Comptroller General, or any of their authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Re: 49 CFR 18.39(i)(11).

FTA does not require the inclusion of these requirements in subcontracts.

Federal Changes

All Contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000)

Contractor shall comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between the purchaser and FTA, as they may be amended or promulgated from time to time during the term of the contract. Contractor's failure to comply shall constitute a material breach of the contract.

Civil Rights (Title VI, EEO, ADA)

All Contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000)

The following requirements apply to the underlying contract:

(a) The Recipient agrees that it must comply with applicable federal civil rights laws, regulations, requirements, and guidance, and follow applicable federal guidance, except as the Federal Government determines otherwise in writing. Therefore, unless a Recipient or a federal program, including the Tribal Transit Program or the Indian Tribe Recipient, is specifically exempted from a civil rights statute, FTA requires compliance with that civil rights statute, including compliance with equity in service.

(b) Nondiscrimination in Federal Public Transportation Programs. The Recipient agrees to, and assures that it and each Third Party Participant, will: (1) Prohibit discrimination based on the basis of race, color, religion, national origin, sex, disability, or age. (2) Prohibit the: (a) Exclusion from participation in employment or a business opportunity for reasons identified in 49 U.S.C. § 5332, (b) Denial of program benefits in employment or a business opportunity identified in 49 U.S.C. § 5332, or (c) Discrimination, including discrimination in employment or a business opportunity identified in 49 U.S.C. § 5332. (3) Follow: (a) The most recent edition of FTA Circular 4702.1, "Title VI Requirements and Guidelines for Federal Transit Administration Recipients," to the extent consistent with applicable federal laws, regulations, requirements, and guidance, and other applicable federal guidance that may be issued, but (b) FTA does not require an Indian Tribe to comply with FTA program-specific guidelines for Title VI when administering its Underlying Agreement supported with federal assistance under the Tribal Transit Program.

(c) Nondiscrimination – Title VI of the Civil Rights Act. The Recipient agrees to, and assures that each Third Party Participant, will: (1) Prohibit discrimination based on race, color, or national origin, (2) Comply with: (a) Title VI of the Civil Rights Act of 1964, as

amended, 42 U.S.C. § 2000d et seq., (b) U.S. DOT regulations, “Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964,” 49 C.F.R. part 21, and (c) Federal transit law, specifically 49 U.S.C. § 5332, and (3) Follow: (a) The most recent edition of FTA Circular 4702.1, “Title VI Requirements and Guidelines for Federal Transit Administration Recipients,” to the extent consistent with applicable federal laws, regulations, requirements, and guidance, (b) U.S. DOJ, “Guidelines for the enforcement of Title VI, Civil Rights Act of 1964,” 28 C.F.R. § 50.3, and (c) All other applicable federal guidance that may be issued.

(d) Equal Employment Opportunity. (1) Federal Requirements and Guidance. The Recipient agrees to, and assures that each Third Party Participant will, prohibit, discrimination on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin, and: (a) Comply with Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq., (b) Facilitate compliance with Executive Order No. 11246, “Equal Employment Opportunity” September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it in part and is applicable to federal assistance programs, (c) Comply with federal transit law, specifically 49 U.S.C. § 5332, as provided in section 12.a of this Master Agreement, (d) FTA Circular 4704.1, “Equal Employment Opportunity Program Guidelines for Grant Recipients,” July 26, 1988, and (e) Follow other federal guidance pertaining to Equal Employment Opportunity laws, regulations, and requirements, and prohibitions against discrimination on the basis of disability, (2) Specifics. The Recipient agrees to, and assures that each Third Party Participant will: (a) Prohibited Discrimination. As provided by Executive Order No. 11246, as amended by any later Executive Order that amends or supersedes it, and as specified by U.S. Department of Labor regulations, ensure that applicants for employment are employed and employees are treated during employment without discrimination on the basis of their race, color, religion, national origin, disability, age, sexual orientation, gender identity, or status as a parent, (b) Affirmative Action. Take affirmative action that includes, but is not limited to: 1 Recruitment advertising, recruitment, and employment, 2 Rates of pay and other forms of compensation, 3 Selection for training, including apprenticeship, and upgrading, and 4 Transfers, demotions, layoffs, and terminations, but (c) Indian Tribe. Recognize that Title VII of the Civil Rights Act of 1964, as amended, exempts Indian Tribes under the definition of “Employer,” and (3) Equal Employment Opportunity Requirements for Construction Activities. Comply, when undertaking “construction” as recognized by the U.S. Department of Labor (U.S. DOL), with: (a) U.S. DOL regulations, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor,” 41 C.F.R. chapter 60, and (b) Executive Order No. 11246, “Equal Employment Opportunity in Federal Employment,” September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. § 2000e note.

(e) Disadvantaged Business Enterprise. To the extent authorized by applicable federal laws and regulations, the Recipient agrees to facilitate, and assures that each Third Party Participant will facilitate, participation by small business concerns owned and controlled by socially and economically disadvantaged individuals, also referred to as “Disadvantaged Business Enterprises” (DBEs), in the Underlying Agreement as follows: (1) Statutory and Regulatory Requirements. The Recipient agrees to comply with: (a) Section 1101(b) of the FAST Act, 23 U.S.C. §101 note, (b) U.S. DOT regulations, “Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs,” 49 C.F.R. part 26, and (c) Federal transit law, specifically 49 U.S.C. § 5332, as provided in section 12.a of this Master Agreement. (2) DBE Program Requirements. A Recipient that receives planning, capital and/or operating assistance and that will award prime third party contracts exceeding \$250,000 in a federal fiscal year must have a DBE program meeting the requirements of 49 C.F.R. part 26, that is approved by FTA, and establish an annual DBE participation goal. (3) Special Requirements for a Transit Vehicle Manufacturer (TVM). The Recipient agrees that: (a) TVM Certification. Each TVM, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, must certify that it has complied with the requirements of 49 C.F.R. part 26, and (b) Reporting TVM Awards. Within 30 days of any third party contract award for a vehicle purchase, the Recipient must submit to FTA the name of the TVM contractor and the total dollar value of the third party contract, and notify FTA that this information has been attached to FTA’s electronic award and management system, the Recipient must also submit subsequent notifications if options are exercised in subsequent years to ensure the TVM is still in good standing. (4) Assurance. As required by 49 C.F.R. § 26.13(a): (a) Recipient Assurance. The Recipient agrees and assures that: 1 It must not discriminate on the basis of race, color, national origin, or sex in the award and performance of any FTA or U.S. DOT-assisted contract, or in the administration of its DBE program or the requirements of 49 C.F.R. part 26, 2 It must take all necessary and reasonable steps under 49 C.F.R. part 26 to ensure nondiscrimination in the award and administration of U.S. DOT-assisted contracts, 3 Its DBE program, as required under 49 C.F.R. part 26 and as approved by U.S. DOT, is incorporated by reference and made part of the Underlying Agreement, and 4 Implementation of its DBE program approved by U.S. DOT is a legal obligation and failure to carry out its terms shall be treated as a violation of this Master Agreement. (b) Subrecipient/Third Party Contractor/Third Party Subcontractor Assurance. The Recipient agrees and assures that it will include the following assurance in each subagreement and third party contract it signs with a Subrecipient or Third Party Contractor and agrees to obtain the agreement of each of its Subrecipients, Third Party Contractors, and Third Party Subcontractors to include the following assurance in every subagreement and third party contract it signs: 1 The Subrecipient, each Third Party Contractor, and each Third Party

Subcontractor must not discriminate on the basis of race, color, national origin, or sex in the award and performance of any FTA or U.S. DOT-assisted subagreement, third party contract, and third party subcontract, as applicable, and the administration of its DBE program or the requirements of 49 C.F.R. part 26, 2 The Subrecipient, each Third Party Contractor, and each Third Party Subcontractor must take all necessary and reasonable steps under 49 C.F.R. part 26 to ensure nondiscrimination in the award and administration of U.S. DOT-assisted subagreements, third party contracts, and third party subcontracts, as applicable, 3 Failure by the Subrecipient and any of its Third Party Contractors or Third Party Subcontractors to carry out the requirements of this subparagraph 13.d(4)(b) is a material breach of this subagreement, third party contract, or third party subcontract, as applicable, and 4 The following remedies, or such other remedy as the Recipient deems appropriate, include, but are not limited to, withholding monthly progress payments; assessing sanctions; liquidated damages; and/or disqualifying the Subrecipient, Third Party Contractor, or Third Party Subcontractor from future bidding as non-responsible. (5) Remedies. Upon notification to the Recipient of its failure to carry out its approved program, FTA or U.S. DOT may impose sanctions as provided for under 49 C.F.R. part 26, and, in appropriate cases, refer the matter for enforcement under either or both 18 U.S.C. § 1001, and/or the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. § 3801 et seq.

(f) Nondiscrimination on the Basis of Sex. The Recipient agrees to comply with federal prohibitions against discrimination on the basis of sex, including: (1) Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 et seq., (2) U.S. DOT regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 C.F.R. part 25, and (3) Federal transit law, specifically 49 U.S.C. § 5332.

(g) Nondiscrimination on the Basis of Age. The Recipient agrees to comply with federal prohibitions against discrimination on the basis of age, including: (1) The Age Discrimination in Employment Act, 29 U.S.C. §§ 621 – 634, which prohibits discrimination on the basis of age, (2) U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, (3) The Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., which prohibits discrimination against individuals on the basis of age in the administration of Programs, Projects, and related activities receiving federal assistance, (4) U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, and (5) Federal transit law, specifically 49 U.S.C. § 5332.

(h) Nondiscrimination on the Basis of Disability. The Recipient agrees to comply with the following federal prohibitions against discrimination on the basis of disability: (1) Federal laws, including: (a) section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of disability in the administration of federally assisted Programs, Projects, or activities, (b) The Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. § 12101 et seq., which requires that accessible facilities and services be made available to individuals with disabilities: 1 For FTA Recipients generally, Titles I, II, and III of the ADA apply, but 2 For Indian Tribes, Titles II and III of the ADA apply, but Title I of the ADA does not apply because it exempts Indian Tribes from the definition of "employer," (c) The Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., which requires that buildings and public accommodations be accessible to individuals with disabilities, (d) Federal transit law, specifically 49 U.S.C. § 5332, which now includes disability as a prohibited basis for discrimination, and (e) Other applicable federal laws, regulations and requirements pertaining to access for seniors or individuals with disabilities. (2) Federal regulations, including: (a) U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 C.F.R. part 37, (b) U.S. DOT regulations, "Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 C.F.R. part 27, (c) Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB) and U.S. DOT regulations, "Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 C.F.R. part 1192 and 49 C.F.R. part 38, (d) U.S. DOT regulations, "Transportation for Individuals with Disabilities: Passenger Vessels," 49 C.F.R. part 39, (e) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. part 35, (f) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R. part 36, (g) U.S. EEOC, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. part 1630, (h) U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for Persons with Disabilities," 47 C.F.R. part 64, Subpart F, (i) U.S. ATBCB regulations, "Electronic and Information Technology Accessibility Standards," 36 C.F.R. part 1194, and (j) FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 C.F.R. part 609, and (k) Other applicable federal civil rights and nondiscrimination guidance.

(i) Drug or Alcohol Abuse. Confidentiality and Other Civil Rights Protections. The Recipient agrees to comply with the confidentiality and civil rights protections of: (1) The Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. § 1101 et seq., (2) The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended, 42 U.S.C. § 4541 et seq., and (3) The Public Health Service Act, as amended, 42 U.S.C. §§ 290dd – 290dd-2.

(j) Access to Services for Persons with Limited English Proficiency. The Recipient agrees to promote accessibility of public transportation services to persons with limited understanding of English by following: (1) Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," August 11, 2000, 42 U.S.C. § 2000d-1 note, and (2) U.S. DOT Notice, "DOT Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficiency (LEP) Persons," 70 Fed. Reg. 74087, December 14, 2005.

(k) Other Nondiscrimination Laws, Regulations, Requirements, and Guidance. The Recipient agrees to comply with other applicable federal nondiscrimination laws, regulations, and requirements, and follow federal guidance prohibiting discrimination. l. Remedies. Remedies for failure to comply with applicable federal Civil Rights laws, regulations, requirements, and guidance may be enforced as provided in those federal laws, regulations, or requirements.

Incorporation of FTA Terms

All Contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000)

The preceding provisions include, in part, certain Standard Terms & Conditions required by USDOT, whether or not expressly stated in the preceding contract provisions. All USDOT-required contractual provisions, as stated in current FTA Circular 4220.1, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The contractor shall not perform any act, fail to perform any act, or refuse to comply with any request that would cause the recipient to be in violation of FTA terms and conditions.

Energy Conservation

All Contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000)

Contractor shall comply with mandatory standards and policies relating to energy efficiency, stated in the state energy conservation plan issued in compliance with the Energy Policy & Conservation Act.

Disadvantaged Business Enterprises (DBEs)

All Contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000)

This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs and with section 1101(b) of SAFETEA LU, 23 U.S.C. § 101.

The contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this FTA-assisted contract. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as THE DISTRICT deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph. The successful proposer/offeror will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.

Prompt Payment

All contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000)

The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work from THE DISTRICT. In addition, the contractor may not hold retainage from its subcontractors. The contractor must promptly notify THE DISTRICT whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of THE DISTRICT.

Contracts Involving Federal Privacy Act Requirements

When a grantee maintains files on drug and alcohol enforcement activities for FTA, and those files are organized so that information could be retrieved by personal identifier, the Privacy Act requirements apply to all contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000)

The following requirements apply to the Contractor and its employees that administer any system of records on behalf of the Federal Government under any contract:

(1) The Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552a. Among other things, the Contractor agrees to obtain the express consent of the Federal Government before the Contractor or its employees operate a system of records on behalf of the Federal Government. The Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.

(2) The Contractor also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

Patent and Rights in Data

Research projects in which FTA finances the purpose of the grant is to finance the development of a product or information. These patent and data rights requirements do not apply to capital projects or operating projects, even though a small portion of the sales price may cover the cost of product development or writing the user's manual or to micro-purchases (\$10,000 or less)

Patent Rights

(a) General. The Recipient agrees that: (1) Depending on the nature of the Project, the Federal Government may acquire patent rights when the Recipient or Third Party Participant produces a patented or patentable: (a) Invention, (b) Improvement, or (c) Discovery, (2) The Federal Government's rights arise when the patent or patentable information is: (a) Conceived under the Project, or (b) Reduced to practice under the Project, and (3) When a patent is issued or patented information becomes available as described in Patent Rights section A(2), the Recipient agrees to: (a) Notify FTA immediately, and (b) Provide a detailed report satisfactory to FTA,

(b) Federal Rights. The Recipient agrees that: (1) Its rights and responsibilities, and the rights and responsibilities of each Third Party Participant, in that federally funded invention, improvement, or discovery will be determined as provided by applicable Federal laws, regulations, and guidance, including any waiver thereof, and (2) Unless the Federal Government determines otherwise in writing, irrespective of the Recipient's status or the status of any Third Party Participant as a large business, a small business, a State government, a State instrumentality, a local government, an Indian tribe, a nonprofit organization, an institution of higher education, or an individual, the Recipient agrees to transmit the Federal Government's patent rights to FTA as specified in: (a) 35 U.S.C. § 200 et seq., and (b) U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. part 401, and

(c) C. License Fees and Royalties. As permitted by 49 C.F.R. parts 18 and 19: (1) License fees and royalties for patents, patent applications, and inventions derived from the Project are program income, and (2) The Recipient has no obligation to the Federal Government with respect to those license fees or royalties, except: (a) For compliance with 35 U.S.C. § 200 et seq., which applies to patent rights developed under a federally funded research-type project, and (b) As FTA determines otherwise in writing.

Rights in Data and Copyrights

(a) Definition of "Subject Data" means recorded information: (1) Copyright. Whether or not copyrighted, and (2) Delivery. That is delivered or specified to be delivered under the Underlying Agreement,

(b) Examples of "Subject Data." Examples of "subject data": (1) Include, but are not limited to: (a) Computer software, (b) Standards, (c) Specifications, (d) Engineering drawings and associated lists, (e) Process sheets, (f) Manuals, (g) Technical reports, (h) Catalog

item identifications, and (i) Related information, but (2) Do not include: (a) Financial reports, (b) Cost analyses, or (c) Other similar information used for Project administration,

(c) General Federal Restrictions. The following restrictions apply to all subject data first produced in the performance of the Recipient's Project supported by the Underlying Agreement: (1) Prohibitions. The Recipient may not: (a) Publish or reproduce any subject data in whole or in part, or in any manner or form, or (b) Permit others to do so, but (2) Exceptions. The prohibitions of Rights in Data and Copyrights C(1) do not apply to: (a) Publications or reproductions for the Recipient's own internal use, (b) An institution of higher learning, (c) The portion of subject data that the Federal Government has previously released or approved for release to the public, or (d) The portion of data that has the Federal Government's prior written consent for release,

(d) Federal Rights in Data and Copyrights. The Recipient agrees that: (1) License Rights. The Recipient must provide a license to its "subject data" to the Federal Government, which license is: (a) Royalty-free, (b) Nonexclusive, and (c) Irrevocable, (2) Uses. The Federal Government's license must permit the Federal Government to take the following actions provided those actions are taken for Federal Government purposes: (a) Reproduce the subject data, (b) Publish the subject data, (c) Otherwise use the subject data, and (d) Permit other entities or individuals to use the subject data, and

(e) Special Federal Rights in Data for Research, Development, Demonstration, Deployment, and Special Studies Projects. In general, FTA's purpose in providing Federal funds for a research, development, demonstration, deployment, or special studies Project is to increase transportation knowledge, rather than limit the benefits of the Project to the Recipient and its Third Party Participants, therefore, the Recipient agrees that: (1) Publicly Available Report. When the Project is completed, it must provide a Project report that FTA may publish or make available for publication on the Internet, (2) Other Reports. It must provide other reports pertaining to the Project that FTA may request, (3) Availability of Subject Data. FTA may make available to any FTA Recipient or any of its Third Party Participants at any tier of the Project, either FTA's copyright license to the subject data or a copy of the subject data, except as the Federal Government determines otherwise in writing, (4) Identification of Information. It must identify clearly any specific confidential, privileged, or proprietary information submitted to FTA, (5) Incomplete Project. If the Project is not completed for any reason whatsoever, all data developed under the Project becomes "subject data" and must be delivered as the Federal Government may direct, but (6) Exception Rights in Data and Copyrights Section E does not apply to an adaptation of automatic data processing equipment or program that is both: (a) For the Recipient's use, and (b) Acquired with FTA capital program funding,

(f) License Fees and Royalties. As permitted by 49 C.F.R. parts 18 and 19: (1) License fees and royalties for copyrighted material or trademarks derived from Project are program income, and (2) The Recipient has no obligation to the Federal Government with respect to those license fees or royalties, except: (a) For compliance with 35 U.S.C. § 200 et seq., which applies to patent rights developed under a federally funded research-type project, and (b) As FTA determines otherwise in writing,

(g) Hold Harmless. Upon request by the Federal Government, the Recipient agrees that: (1) Violation by Recipient. (a) If it willfully or intentionally violates any: 1 Proprietary rights, 2 Copyrights, or 3 Right of privacy, and (b) Its violation occurs from any of the following uses of Project data: 1 Publication, 2 Translation, 3 Reproduction, 4 Delivery, 5 Use, or 6 Disposition, then (c) It will indemnify, save, and hold harmless against any liability, including costs and expenses of: 1 The Federal Government's officers acting within the scope of their official duties, 2 The Federal Government's employees acting within the scope of their official duties, and 3 Federal Government's agents acting within the scope of their official duties, but (2) Exceptions. The Recipient will not be required to indemnify the Federal Government for any liability described in Rights in Data and Copyrights section G(1) if: (a) Violation by Federal Officers, Employees or Agents. The violation is caused by the wrongful acts of Federal employees or agents, or (b) State law. If indemnification is prohibited or limited by applicable State law,

(h) Restrictions on Access to Patent Rights. Nothing in this Rights in Data and Copyrights section pertaining to rights in data either: (1) Implies a license to the Federal Government under any patent, or (2) May be construed to affect the scope of any license or other right otherwise granted to the Federal Government under any patent,

(i) Data Developed Without Federal Funding or Support. The Recipient understands and agrees that in certain circumstances it may need to provide data developed without any Federal funding or support to FTA. Nevertheless: (1) Protections. Rights in Data and Copyrights Sections A, B, C, and D generally do not apply to data developed without Federal funding, even though that data may have been used in connection with the Project, and (2) Identification of Information. The Recipient understands and agrees that the Federal Government will not be able to protect data developed without Federal funding from unauthorized disclosure unless that data is clearly marked "Proprietary" or "Confidential," and

(j) Requirements to Release Data. The Recipient understands and agrees that the Federal Government may be required to release Project data and information the Recipient submits to the Federal Government as required by: (1) The Freedom of Information Act, 5 U.S.C. § 552, (2) Another applicable Federal law requiring access to Project records, (3) U.S. DOT regulations, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations," specifically 49 C.F.R. § 19.36(d), or (4) Other applicable Federal regulations and guidance pertaining to access to Project records.

Bus Testing

Rolling stock, except minivans

Contractor shall comply with 49 USC A5323(c) and FTA's implementing regulation 49 CFR 665, to the extent they are consistent with 49 U.S.C. § 5318(e), as amended; and shall perform the following: (1) A manufacturer of a new bus model or a bus produced with a major change in components or configuration shall provide a copy of the final test report to the recipient prior to the recipient's final acceptance of the first vehicle. (2) A manufacturer who releases a report under para. 1 above shall provide notice to the operator of the testing facility that the report is available to the public. (3) If the manufacturer represents that the vehicle was previously tested, the vehicle being sold should have the identical configuration and major components as the vehicle in the test report, which must be provided to the recipient prior to the recipient's final acceptance of the first vehicle. If configuration or components are not identical, the manufacturer shall provide a description of the change and the manufacturer's basis for concluding that it is not a major change requiring additional testing. (4) If the manufacturer represents that the vehicle is "grandfathered" (has been used in mass transit service in the US before Oct. 1, 1988, and is currently being produced without a major change in configuration or components), the manufacturer shall provide the name and address of the recipient of such a vehicle and the details of that vehicle's configuration and major components.

Pre-Award and Post-Delivery Audit Requirements

Rolling stock

Contractor shall comply with 49 USC 5323(l) and FTA's implementing regulation 49 CFR 663 and submit the following certifications: (1) Buy America Requirements: Contractor shall complete and submit a declaration certifying either compliance or noncompliance with Buy America. If contractor certifies compliance with Buy America, it shall submit documentation listing 1) component and subcomponent parts of the rolling stock to be purchased identified by manufacturer of the parts, their country of origin and costs; and 2) the location of the final assembly point for the rolling stock, including a description of the activities that will take place at the final assembly point and the cost of final assembly. (2) Solicitation Specification Requirements: Contractor shall submit evidence that it will be capable of meeting the bid specifications. (3) Federal Motor Vehicle Safety Standards (FMVSS): Contractor shall submit 1) manufacturer's FMVSS self-certification sticker information that the vehicle complies with relevant FMVSS or 2) manufacturer's certified statement that the buses will not be subject to FMVSS regulations.

Cargo Preference

Contracts involving equipment, materials or commodities which may be transported by ocean vessels. These requirements do not apply to micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).

Contractor shall: (a) use privately owned US-Flag commercial vessels to ship at least 50% of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners and tankers) involved, whenever shipping any equipment, material or commodities pursuant to the underlying contract to the extent such vessels are available at fair and reasonable rates for US flag commercial vessels; (b) furnish within 20 working days following the loading date of shipments originating within the US or within 30 working days following the loading date of shipments originating outside the US, a legible copy of a rated, "on-board" commercial bill-of-lading in English for each shipment of cargo described herein to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the recipient (through contractor in the case of a subcontractor's bill-of-lading.); (c) include these requirements in all subcontracts issued pursuant to this contract when the subcontract involves the transport of equipment, material or commodities by ocean vessel.

Fly America

All contracts involving transportation of persons or property, by air between the U.S. and/or places outside the U.S. These requirements do not apply to micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).

Contractor shall comply with 49 USC 40118 (the "Fly America" Act) in accordance with General Services Administration regulations 41 CFR 301-10, stating that recipients and subrecipients of Federal funds and their contractors are required to use US Flag air carriers for US Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a US flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. Contractor shall include the requirements of this section in all subcontracts that may involve international air transportation.

Seismic Safety

Construction of new buildings or additions to existing buildings. These requirements do not apply to micropurchases (\$10,000 or less, except for construction contracts over \$2,000).

Contractor agrees that any new building or addition to an existing building shall be designed and constructed in accordance with the standards required in USDOT Seismic Safety Regulations 49 CFR 41 and shall certify compliance to the extent required by the regulation. Contractor shall also ensure that all work performed under this contract, including work performed by subcontractors, complies with the standards required by 49 CFR 41 and the certification of compliance issued on the project.

Davis-Bacon and Copeland Anti-Kickback Act

Construction contracts and subcontracts, including actual construction, alteration and/or repair, including decorating and painting, over \$2,000

(1) Minimum wages - (i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph (1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers. (ii)(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) Except with respect to helpers as defined as 29 CFR 5.2(n)(4), the work to be performed by the classification requested is not performed by a classification in the wage determination; and (2) The classification is utilized in the area by the construction industry;

and (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination; and (4) With respect to helpers as defined in 29 CFR 5.2(n)(4), such a classification prevails in the area in which the work is performed. (B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary. (C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary. (D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification. (iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof. (iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (v)(A) The contracting officer shall require that any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met: (1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and (2) The classification is utilized in the area by the construction industry; and (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination. (B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary. (C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination with 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary. (D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(v) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(2) Withholding - The recipient shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the grantee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) Payrolls and basic records - (i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (ii)(A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the recipient for transmission to the Federal Transit Administration. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 CFR part 5. This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1), U.S. Government Printing Office, Washington, DC 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. (B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following: (1) That the payroll for the payroll period contains the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 CFR part 5 and that such information is correct and complete; (2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3; (3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract. (C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section. (D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code. (iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the Federal Transit Administration or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) Apprentices and trainees - (i) Apprentices - Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level

of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator of the Wage and Hour Division of the U.S. Department of Labor determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved. (ii) Trainees - Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved. (iii) Equal employment opportunity - The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

(5) Compliance with Copeland Act requirements - The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(6) Subcontracts - The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the Federal Transit Administration may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) Contract termination: debarment - A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) Compliance with Davis-Bacon and Related Act requirements - All rulings and interpretations of the Davis- Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) Disputes concerning labor standards - Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(10) Certification of Eligibility - (i) By entering into this contract, contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1). (ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1). (iii) The penalty for making false statements is prescribed in 18 USC 1001.

Bonding

For those construction or facility improvement contracts or subcontracts exceeding \$250,000, FTA may accept the bonding policy and requirements of the recipient, 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 guarantees" 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 to 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.
- c. A payment bond on the part of the contractor for 100 percent of the contract price. 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. An irrevocable letter of credit would also satisfy the requirement for a bond.

Bid Bond Requirements (Construction)

(a) Bid Security - A Bid Bond must be issued by a fully qualified surety company acceptable to (Recipient) and listed as a company currently authorized under 31 CFR, Part 223 as possessing a Certificate of Authority as described thereunder.

(b) Rights Reserved - In submitting this Bid, it is understood and agreed by bidder that the right is reserved by (Recipient) to reject any and all bids, or part of any bid, and it is agreed that the Bid may not be withdrawn for a period of [ninety (90)] days subsequent to the opening of bids, without the written consent of (Recipient). It is also understood and agreed that if the undersigned bidder should withdraw any part or all of his bid within [ninety (90)] days after the bid opening without the written consent of (Recipient), shall refuse or be unable to enter into this Contract, as provided above, or refuse or be unable to furnish adequate and acceptable Performance Bonds and Labor and Material Payments Bonds, as provided above, or refuse or be unable to furnish adequate and acceptable insurance, as provided above, he shall forfeit his bid security to the extent of (Recipient's) damages occasioned by such withdrawal, or refusal, or inability to enter into an agreement, or provide adequate security therefor.

It is further understood and agreed that to the extent the defaulting bidder's Bid Bond, Certified Check, Cashier's Check, Treasurer's Check, and/or Official Bank Check (excluding any income generated thereby which has been retained by (Recipient) as provided in [Item x "Bid Security" of the Instructions to Bidders]) shall prove inadequate to fully recompense (Recipient) for the damages occasioned by default, then the undersigned bidder agrees to indemnify (Recipient) and pay over to (Recipient) the difference between the bid security and (Recipient's) total damages, so as to make (Recipient) whole. The undersigned understands that any material alteration of any of the above or any of the material contained on this form, other than that requested, will render the bid unresponsive.

Performance and Payment Bonding Requirements (Construction)

The Contractor shall be required to obtain performance and payment bonds as follows:

(a) Performance bonds

1. The penal amount of performance bonds shall be 100 percent of the original contract price, unless the (Recipient) determines that a lesser amount would be adequate for the protection of the (Recipient).
2. The (Recipient) may require additional performance bond protection when a contract price is increased. The increase in protection shall generally equal 100 percent of the increase in contract price. The (Recipient) may secure additional protection by directing the Contractor to increase the penal amount of the existing bond or to obtain an additional bond.

(b) Payment bonds

1. The penal amount of the payment bonds shall equal: (i) Fifty percent of the contract price if the contract price is not more than \$1 million.
 (ii) Forty percent of the contract price if the contract price is more than \$1 million but not more than \$5 million; or
 (iii) Two and one half million if the contract price is more than \$5 million.
2. If the original contract price is \$5 million or less, the (Recipient) may require additional protection as required by subparagraph 1 if the contract price is increased.

Performance and Payment Bonding Requirements (Non-Construction)

The Contractor may be required to obtain performance and payment bonds when necessary to protect the (Recipient's) interest.

(a) The following situations may warrant a performance bond:

1. (Recipient) property or funds are to be provided to the contractor for use in performing the contract or as partial compensation (as in retention of salvaged material).

2. A contractor sells assets to or merges with another concern, and the (Recipient), after recognizing the latter concern as the successor in interest, desires assurance that it is financially capable.
3. Substantial progress payments are made before delivery of end items starts.
4. Contracts are for dismantling, demolition, or removal of improvements.

(b) When it is determined that a performance bond is required, the Contractor shall be required to obtain performance bonds as follows:

1. The penal amount of performance bonds shall be 100 percent of the original contract price, unless the (Recipient) determines that a lesser amount would be adequate for the protection of the (Recipient).

2. The (Recipient) may require additional performance bond protection when a contract price is increased. The increase in protection shall generally equal 100 percent of the increase in contract price. The (Recipient) may secure additional protection by directing the Contractor to increase the penal amount of the existing bond or to obtain an additional bond.

(c) A payment bond is required only when a performance bond is required, and if the use of payment bond is in the (Recipient's) interest.

(d) When it is determined that a payment bond is required, the Contractor shall be required to obtain payment bonds as follows:

1. The penal amount of payment bonds shall equal:

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

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

(iii) Two and one half million if the contract price is increased.

Advance Payment Bonding Requirements

The Contractor may be required to obtain an advance payment bond if the contract contains an advance payment provision and a performance bond is not furnished. The (recipient) shall determine the amount of the advance payment bond necessary to protect the (Recipient).

Patent Infringement Bonding Requirements (Patent Indemnity)

The Contractor may be required to obtain a patent indemnity bond if a performance bond is not furnished and the financial responsibility of the Contractor is unknown or doubtful. The (recipient) shall determine the amount of the patent indemnity to protect the (Recipient).

Warranty of the Work and Maintenance Bonds

1. The Contractor warrants to (Recipient), the Architect and/or Engineer that all materials and equipment furnished under this Contract will be of highest quality and new unless otherwise specified by (Recipient), free from faults and defects and in conformance with the Contract Documents. All work not so conforming to these standards shall be considered defective. If required by the [Project Manager], the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

2. The Work furnished must be of first quality and the workmanship must be the best obtainable in the various trades. The Work must be of safe, substantial and durable construction in all respects. The Contractor hereby guarantees the Work against defective materials or faulty workmanship for a minimum period of one (1) year after Final Payment by (Recipient) and shall replace or repair any defective materials or equipment or faulty workmanship during the period of the guarantee at no cost to (Recipient). As additional security for these guarantees, the Contractor shall, prior to the release of Final Payment [as provided in Item X below], furnish separate Maintenance (or Guarantee) Bonds in form acceptable to (Recipient) written by the same corporate surety that provides the Performance Bond and Labor and Material Payment Bond for this Contract. These bonds shall secure the Contractor's obligation to replace or repair defective materials and faulty workmanship for a minimum period of one (1) year after Final Payment and shall be written in an amount equal to ONE HUNDRED PERCENT (100%) of the CONTRACT SUM, as adjusted (if at all).

Termination Provisions

All Contracts over \$10,000, except contracts with nonprofit organizations and institutions of higher learning, where the threshold is \$250,000

(a) Termination for Convenience (General Provision). The recipient may terminate this contract, in whole or in part, at any time by written notice to contractor when it is in the recipient's best interest. Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. Contractor shall promptly submit its termination claim to the recipient. If contractor is in possession of any of the recipient's property, contractor shall account for same, and dispose of it as the recipient directs.

(b) Termination for Default [Breach or Cause] (General Provision). If contractor does not deliver items in accordance with the contract delivery schedule, or, if the contract is for services, and contractor fails to perform in the manner called for in the contract, or if contractor fails to comply with any other provisions of the contract, the recipient may terminate this contract for default. Termination shall be effected by serving a notice of termination to contractor setting forth the manner in which contractor is in default. Contractor shall only be paid the contract price for supplies delivered and accepted, or for services performed in accordance with the manner of performance set forth in the contract.

If it is later determined by the recipient that contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of contractor, the recipient, after setting up a new delivery or performance schedule, may allow contractor to continue work, or treat the termination as a termination for convenience.

(c) Opportunity to Cure (General Provision). The recipient in its sole discretion may, in the case of a termination for breach or default, allow contractor an appropriately short period of time in which to cure the defect. In such case, the notice of termination shall state the time period in which cure is permitted and other appropriate conditions if contractor fails to remedy to the recipient's satisfaction the breach or default or any of the terms, covenants, or conditions of this Contract within ten (10) days after receipt by contractor or written notice from the recipient setting forth the nature of said breach or default, the recipient shall have the right to terminate the Contract without any further obligation to contractor. Any such termination for default shall not in any way operate to preclude the recipient from also pursuing all available remedies against contractor and its sureties for said breach or default.

(d) Waiver of Remedies for any Breach. In the event that the recipient elects to waive its remedies for any breach by contractor of any covenant, term or condition of this Contract, such waiver by the recipient shall not limit its remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

(e) Termination for Convenience (Professional or Transit Service Contracts). The recipient, by written notice, may terminate this contract, in whole or in part, when it is in the recipient's interest. If the contract is terminated, the recipient shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

Recycled Products

All contracts over \$10,000 for items designated by the EPA

The contractor agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

Gov't-wide Debarment and Suspension

All Contracts over \$25,000

The Recipient agrees to the following: (1) It will comply with the requirements of 2 C.F.R. part 180, subpart C, as adopted and supplemented by U.S. DOT regulations at 2 C.F.R. part 1200, which include the following: (a) It will not enter into any arrangement to participate in the development or implementation of the Project with any Third Party Participant that is debarred or suspended except as authorized by: 1 U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 C.F.R. part 1200, 2 U.S. OMB, "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 C.F.R. part 180, including any amendments thereto, and 3 Executive Orders Nos. 12549 and 12689, "Debarment and Suspension," 31 U.S.C. § 6101 note, (b) It will review the U.S. GSA "System for Award Management," <https://www.sam.gov>, if required by U.S. DOT regulations, 2 C.F.R. part 1200, and (c) It will include, and require each of its Third Party Participants to include, a similar provision in each lower tier covered transaction, ensuring that each lower tier Third Party Participant: 1 Will comply with Federal debarment and suspension requirements, and 2 Reviews the "System for Award Management" at <https://www.sam.gov>, if necessary to comply with U.S. DOT regulations, 2 C.F.R. part 1200, and (2) If the Recipient suspends, debars, or takes any similar action against a Third Party Participant or individual, the Recipient will provide immediate written notice to the: (a) FTA Regional Counsel for the Region in which the Recipient is located or implements the Project, (b) FTA Project Manager if the Project is administered by an FTA Headquarters Office, or (c) FTA Chief Counsel.

Buy America

Construction Contracts and Acquisition of Goods or Rolling Stock valued at more than \$150,000

Contractor shall comply with 49 USC 5323(j) and 49 CFR 661, stating 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 CFR 661.7, and include final assembly in the US for 15 passenger vans and 15 passenger wagons produced by Chrysler Corp., software, microcomputer equipment and small purchases (currently less than \$150,000) made with capital, operating, or planning funds. Separate requirements for rolling stock are stated at 5323(j)(2)(C) and 49 CFR 661.11. Rolling stock must be manufactured in the US and have a minimum 60% domestic content. A bidder or offeror shall submit appropriate Buy America certification to the recipient with all bids on FTA funded contracts, except those subject to a general waiver. Proposals not accompanied by a completed Buy America certification shall be rejected as nonresponsive. This requirement does not apply to lower tier subcontractors.

Breaches and Dispute Resolution

All contracts over \$250,000

(a) Disputes arising in the performance of this contract which are not resolved by agreement of the parties shall be decided in writing by the recipient's authorized representative. This decision shall be final and conclusive unless within ten (10) days from the date of receipt of its copy, contractor mails or otherwise furnishes a written appeal to the recipient's CEO. In connection with such appeal, contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the recipient's CEO shall be binding upon contractor and contractor shall abide by the decision. FTA has a vested interest in the settlement of any violation of Federal law including the the False Claims Act, 31 U.S.C. § 3729.

(b) Performance During Dispute. Unless otherwise directed by the recipient, contractor shall continue performance under this contract while matters in dispute are being resolved. Claims for Damages - Should either party to the contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefore shall be made in writing to such other party within ten days after the first observance of such injury or damage.

(c) Remedies. Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the recipient and contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the residing State. Rights and Remedies - Duties and obligations imposed by the contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the recipient or contractor shall constitute a waiver of any right or duty afforded any of them under the contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

Lobbying

Construction/Architectural and Engineering/Acquisition of Rolling Stock/Professional Service Contract/Operational Service Contract/Turnkey contracts over \$250,000

Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.] - Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above 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 tier shall 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 Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

Clean Air

All contracts over \$250,000

(1) Contractor shall comply with all applicable standards, orders or regulations pursuant to Section 306 of the Clean Air Act, as amended, 42 U.S.C. § 7606, and other requirements of the Clean Air Act, as amended, 42 U.S.C. §§ 7401 – 7671q. Contractor shall report each violation to the recipient and understands and agrees that the recipient will, in turn, report each violation as required to FTA and the appropriate EPA Regional Office.

(2) Contractor shall include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with FTA assistance.

Clean Water

All Contracts and Subcontracts over \$250,000

Contractor shall comply with all applicable standards, orders or regulations issued pursuant to Section 508 of the Clean Water Act, as amended, 33 U.S.C. § 1368, and other requirements of the Clean Water Act, as amended, 33 U.S.C. §§ 1251 – 1377. Contractor shall report each violation to the recipient and understands and agrees that the recipient shall, in turn, report each violation as required to FTA and the appropriate EPA Regional Office. Contractor shall include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with FTA assistance.

Contract Work Hours and Safety Standards Act

Contracts over \$250,000

(1) Overtime requirements - No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages - In the event of any violation of the clause set forth in para. (1) of this section, contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in para. (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in para. (1) of this section.

(3) Withholding for unpaid wages and liquidated damages - the recipient shall upon its own action or upon written request of USDOL withhold or cause to be withheld, from any moneys payable on account of work performed by contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally assisted contract subject to the Contract Work Hours & Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in para. (2) of this section.

(4) Subcontracts - Contractor or subcontractor shall insert in any subcontracts the clauses set forth in this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. Prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this section.

Other Federal Requirements

The following requirements are not federal clauses, but apply to all contracts except micro-purchases (\$10,000 or less)

Full and Open Competition

In accordance with 49 U.S.C. § 5325(a) all procurement transactions shall be conducted in a manner that provides full and open competition.

Prohibition Against Exclusionary or Discriminatory Specifications

Apart from inconsistent requirements imposed by Federal statute or regulations, the contractor shall comply with the requirements of 49 USC 5323(h)(2) by refraining from using any FTA assistance to support procurements using exclusionary or discriminatory specifications.

Conformance with ITS National Architecture

Contractor shall conform, to the extent applicable, to the National Intelligent Transportation Standards architecture as required by SAFETEA-LU Section 5307(c), 23 U.S.C. Section 512 and as amended by MAP-21 23 U.S.C. § 517(d), note and follow the provisions of FTA Notice, "FTA National Architecture Policy on Transit Projects," 66 Fed. Reg.1455 etseq., January 8, 2001, and any other implementing directives FTA may issue at a later date, except to the extent FTA determines otherwise in writing.

Access Requirements for Persons with Disabilities

Contractor shall comply with 49 USC 5301(d), stating Federal policy that the elderly and persons with disabilities have the same rights as other persons to use mass transportation services and facilities and that special efforts shall be made in planning and designing those services and facilities to implement that policy. Contractor shall also comply with all applicable requirements of Sec. 504 of the Rehabilitation Act (1973), as amended, 29 USC 794, which prohibits discrimination on the basis of handicaps, and the Americans with Disabilities Act of 1990 (ADA), as amended, 42 USC 12101 et seq., which requires that accessible facilities and services be made available to persons with disabilities, including any subsequent amendments thereto.

Notification of Federal Participation

To the extent required by law, in the announcement of any third party contract award for goods and services (including construction services) having an aggregate value of \$500,000 or more, contractor shall specify the amount of Federal assistance to be used in financing that acquisition of goods and services and to express that amount of Federal assistance as a percentage of the total cost of the third party contract.

Interest of Members or Delegates to Congress

No members of, or delegates to, the US Congress shall be admitted to any share or part of this contract nor to any benefit arising therefrom.

Ineligible Contractors and Subcontractors

Any name appearing upon the Comptroller General's list of ineligible contractors for federally-assisted contracts shall be ineligible to act as a subcontractor for contractor pursuant to this contract. If contractor is on the Comptroller General's list of ineligible contractors for federally financed or assisted construction, the recipient shall cancel, terminate or suspend this contract.

Compliance with Federal Regulations

Any contract entered pursuant to this solicitation shall contain the following provisions: All USDOT-required contractual provisions, as set forth in FTA Circular 4220.1F, are incorporated by reference. Anything to the contrary herein notwithstanding, FTA mandated terms shall control in the event of a conflict with other provisions contained in this Agreement. Contractor shall not perform any act, fail to perform any act, or refuse to comply with any grantee request that would cause the recipient to be in violation of FTA terms and conditions. Contractor shall comply with all applicable FTA regulations, policies, procedures and directives, including, without limitation, those listed directly or incorporated by reference in the Master Agreement between the recipient and FTA, as may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

Real Property

Any contract entered into shall contain the following provisions: Contractor shall at all times comply with all applicable statutes and USDOT regulations, policies, procedures and directives governing the acquisition, use and disposal of real property, including, but not limited to, 49 CFR 18.31-18.34, 49 CFR 19.30-19.37, 49 CFR Part 24, 49 CFR 5326 as amended by FAST Act, 49 CFR part 18 or 19,

49 USC 5334, applicable FTA Circular 5010, and FTA Master Agreement, as they may be amended or promulgated during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

Access to Services for Persons with Limited English Proficiency

To the extent applicable and except to the extent that FTA determines otherwise in writing, the Recipient agrees to comply with the policies of Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," 42 U.S.C. § 2000d 1 note, and with the provisions of U.S. DOT Notice, "DOT Guidance to Recipients on Special Language Services to Limited English Proficient (LEP) Beneficiaries," 70 Fed. Reg. 74087, December 14, 2005.

Environmental Justice

Except as the Federal Government determines otherwise in writing, the Recipient agrees to promote environmental justice by following: (1) Executive Order No. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," February 11, 1994, 42 U.S.C. § 4321 note, as well as facilitating compliance with that Executive Order, and (2) DOT Order 5610.2, "Department of Transportation Actions To Address Environmental Justice in Minority Populations and Low-Income Populations," 62 Fed. Reg. 18377, April 15, 1997, and (3) The most recent and applicable edition of FTA Circular 4703.1, "Environmental Justice Policy Guidance for Federal Transit Administration Recipients," August 15, 2012, to the extent consistent with applicable Federal laws, regulations, and guidance.

Environmental Protections

Compliance is required with any applicable Federal laws imposing environmental and resource conservation requirements for the project. Some, but not all, of the major Federal laws that may affect the project include: the National Environmental Policy Act of 1969; the Clean Air Act; the Resource Conservation and Recovery Act; the comprehensive Environmental response, Compensation and Liability Act; as well as environmental provisions with Title 23 U.S.C., and 49 U.C. chapter 53. The U.S. EPA, FHWA and other federal agencies may issue other federal regulations and directives that may affect the project. Compliance is required with any applicable Federal laws and regulations in effect now or that become effective in the future.

Geographic Information and Related Spatial Data

Any project activities involving spatial data or geographic information systems activities financed with Federal assistance are required to be consistent with the National Spatial Data Infrastructure promulgated by the Federal Geographic Data Committee, except to the extent that FTA determines otherwise in writing.

Geographic Restrictions

All project activities must be advertised without geographic preference, (except in A/E under certain circumstances, preference for hiring veterans on transit construction projects and geographic-based hiring preferences as proposes to be amended in 2 CFR Part 1201).

Organizational Conflicts of Interest

The Recipient agrees that it will not enter into a procurement that involves a real or apparent organizational conflict of interest described as follows: (1) When It Occurs. An organizational conflict of interest occurs when the Project work, without appropriate restrictions on certain future activities, results in an unfair competitive advantage: (a) To that Third Party Participant or another Third Party Participant performing the Project work, and (b) That impairs that Third Party Participant's objectivity in performing the Project work, or (2) Other. An organizational conflict of interest may involve other situations resulting in fundamentally unfair competitive conditions, (3) Disclosure Requirements. Consistent with FTA policies, the Recipient must disclose to FTA, and each of its Subrecipients must disclose to the Recipient: (a) Any instances of organizational conflict of interest, or (b) Violations of federal criminal law, involving fraud, bribery, or gratuity violations potentially affecting the federal award, and (4) Failure to Disclose. Failure to make required disclosures can result in remedies for noncompliance, including debarment or suspension.

Federal Single Audit Requirements for State Administered Federally Aid Funded Projects Only

Non Federal entities that expend \$750,000 or more in a year in Federal awards from all sources are required to comply with the Federal Single Audit Act provisions contained in U.S. Office of Management and Budget (OMB) Circular No. A 133, "Audits of States, Local Governments, and Non Profit Organizations" (replaced with 2 CFR Part 200, "Uniform Administrative Requirements, Cost

Principles, and Audit Requirements for Federal Awards” effective December 26, 2014 as applicable). Non Federal entities that expend Federal awards from a single source may provide a program specific audit, as defined in the Circular. Non Federal entities that expend less than the amount above in a year in Federal awards from all sources are exempt from Federal audit requirements for that year, except as noted in Sec. 215 (a) of OMB Circular A-133 Subpart B--Audits, records must be available for review or audit by appropriate officials of the cognizant Federal agency the New York State Department of Transportation, the New York State Comptrollers Office and the U.S. Governmental Accountability Office (GAO). Non Federal entities are required to submit a copy of all audits, as described above, within 30 days of issuance of audit report, but no later than 9 months after the end of the entity’s fiscal year, to the New York State Department of Transportation, Contract Audit Bureau, 50 Wolf Road, Albany, NY 12232. Unless a time extension has been granted by the cognizant Federal Agency and has been filed with the New York State Department of Transportation’s Contract Audit Bureau, failure to comply with the requirements of OMB Circular A-133 may result in suspension or termination of Federal award payments.

Veterans Preference

Veterans Preference. As provided by 49 U.S.C. § 5325(k), to the extent practicable, the Recipient agrees and assures that each of its Subrecipients: (1) Will give a hiring preference to veterans, as defined in 5 U.S.C. § 2108, who have the skills and abilities required to perform construction work required under a third party contract in connection with a Capital Project supported with federal assistance appropriated or made available for 49 U.S.C. chapter 53, and (2) Will not require an employer to give a preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or a former employee.

Safe Operation of Motor Vehicles

The Contractor is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company rented vehicles, or personally operated vehicles. The terms “company-owned” and “company-leased” refer to vehicles owned or leased either by the Contractor or AGENCY.

The Contractor agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Contractor owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the work performed under this agreement.

Catalog of Federal Domestic Assistance (CFDA) Identification Number

The municipal project sponsor is required to identify in its accounts all Federal awards received and expended, and the Federal programs under which they were received. Federal program and award identification shall include, as applicable, the CFDA title and number, award number and year, name of the Federal agency, and name of the pass through entity.

CFDA number for the Federal Transportation Administration

Nonurbanized Area Formula (Section 5311) is 20.509. A Recipient covered by the Single Audit Act Amendments of 1996 and OMB Circular A-133, “Audits of States, Local Governments, and Non-Profit Organizations,” (replaced with 2 CFR Part 200, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards” effective December 26, 2014 as applicable) agrees to separately identify the expenditures for Federal awards under the Recovery Act on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF-SAC) required by OMB Circular A-133. The Recipient agrees to accomplish this by identifying expenditures for Federal awards made under Recovery Act separately on the SEFA, and as separate rows under Item 9 of Part III on the SF-SAC by CFDA number, and inclusion of the prefix “ARRA” in identifying the name of the Federal program on the SEFA and as the first characters in Item 9d of Part III on the SF-SAC.

Other Contract Requirements

To the extent not inconsistent with the foregoing Federal requirements, this contract shall also include those provisions attached hereto, and shall comply with the recipient’s Procurement Guidelines, available upon request from the recipient.

Prohibition on certain telecommunications and video surveillance services or equipment.

- a) Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to:
- 1) Procure or obtain;

- 2) Extend or renew a contract to procure or obtain; or
- 3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
 - (i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
 - (ii) Telecommunications or video surveillance services provided by such entities or using such equipment.
 - (iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.
- b) In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.
- c) See Public Law 115-232, section 889 for additional information.
- d) See also § 200.471.

Federal Tax Liability and Recent Felony Convictions

- (1) The contractor certifies that it: Does not have any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; and
Was not convicted of the felony criminal violation under any Federal law within the preceding 24 months.
If the contractor cannot so certify, the Recipient will refer the matter to FTA and not enter into any Third Party Agreement with the Third Party Participant without FTA's written approval.
- (2) Flow-Down. The Recipient agrees to require the contractor to flow this requirement down to participants at all lower tiers, without regard to the value of any subagreement.

Federal Certifications - Bidders

MISSOULA URBAN TRANSPORTATION DISTRICT

Debarment and Suspension Certification

All Contracts over \$25,000

Instructions for Certification: By signing and submitting this bid or proposal, the prospective lower tier participant is providing the signed certification set out below.

(1) It will comply and facilitate compliance with U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 CFR 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 CFR part 180,

(2) To the best of its knowledge and belief, that its Principals and Subrecipients at the first tier:

- a. Are eligible to participate in covered transactions of any Federal department or agency and are not presently: (1) Debarred, (2) Suspended, (3) Proposed for debarment, (4) Declared ineligible, (5) Voluntarily excluded, or (6) Disqualified,
- b. Its management has not within a three-year period preceding its latest application or proposal been convicted of or had a civil judgment rendered against any of them for: (1) Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction, or contract under a public transaction, (2) Violation of any Federal or State antitrust statute, or (3) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making any false statement, or receiving stolen property,
- c. It is not presently indicted for, or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses listed in the preceding subsection 2.b of this Certification,
- d. It has not had one or more public transactions (Federal, State, or local) terminated for cause or default within a three-year period preceding this Certification,
- e. If, at a later time, it receives any information that contradicts the statements of subsections 2.a – 2.d above, it will promptly provide that information to FTA,
- f. It will treat each lower tier contract or lower tier subcontract under its Project as a covered lower tier contract for purposes of 2 CFR part 1200 and 2 CFR part 180 if it: (1) Equals or exceeds \$25,000, (2) Is for audit services, or (3) Requires the consent of a Federal official, and
- g. It will require that each covered lower tier contractor and subcontractor: (1) Comply and facilitate compliance with the Federal requirements of 2 CFR parts 180 and 1200, and (2) Assure that each lower tier participant in its Project is not presently declared by any Federal department or agency to be: (a) Debarred from participation in its federally funded Project, (b) Suspended from participation in its federally funded Project, (c) Proposed for debarment from participation in its federally funded Project, (d) Declared ineligible to participate in its federally funded Project, (e) Voluntarily excluded from participation in its federally funded Project, or (f) Disqualified from participation in its federally funded Project, and

(3) It will provide a written explanation as indicated on a page attached in FTA's TEAM-Web or the Signature Page if it or any of its principals, including any of its first tier Subrecipients or its Third Party Participants at a lower tier, is unable to certify compliance with the preceding statements in this Certification Group.

Certification

Company _____

Signature of Authorized Official: _____ **Date:** / /

Name and Title of Authorized Official _____

MISSOULA URBAN TRANSPORTATION DISTRICT

Certification of Restrictions on Lobbying

All Contracts over \$250,000

I, _____, hereby certify
(Name and title of official)

on behalf of _____ that:
(Name of Bidder/Company Name)

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 any agency, a Member of Congress, and 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 influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with the 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.
3. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-contracts, sub-grants and contracts under grants, loans, and cooperative agreements) and that all sub-recipients 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.

The undersigned certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification and understands that the provisions of 31 U.S.C. Section 3801, et seq., are applicable thereto.

Name of Bidder/Company Name _____

Type or Print Name _____

Signature of authorized representative _____ Date _____

MISSOULA URBAN TRANSPORTATION DISTRICT

Bus Testing Certification

Revenue Vehicle Contracts

The undersigned bidder [Contractor/Manufacturer] certifies that the vehicle model or vehicle models offered in this bid submission complies with 49 CFR Part 665.

A copy of the test report (for each bid ITEM) prepared by the Federal Transit Administration's (FTA) Altoona, Pennsylvania Bus Testing Center is attached to this certification and is a true and correct copy of the test report as prepared by the facility.

If a copy of a test report prepared by the FTA Altoona, Pennsylvania Bus Testing Center **is not** attached the undersigned has completed this certification and appropriately initialed with the understanding that such vehicle model or models either will fully complete Altoona Testing prior to first vehicle orders and that such test report is forwarded to the Missoula Urban Transportation District for verification, or vehicle model or models bid will be subject to disqualification from bid award for non-compliance. The time frame for compliance or non-compliance, for vehicle models bid that do not have a test report submitted, will be subject to determination by the Missoula Urban Transportation District.

The undersigned understands that misrepresenting the testing status of a vehicle acquired with Federal financial assistance may subject the undersigned to civil penalties as outlined in the U.S. Department of Transportation's regulation on Program Fraud Civil Remedies, 49 CFR Part 31. In addition, the undersigned understands that FTA may suspend or debar a manufacturer under the procedures in 49 CFR Part 29.

Check one that applies:

Copy of Altoona Test Report (STURRA) for vehicle model bid is attached (initial) _____

STURRA Test Report #: _____

Copy of Altoona Test Report (STURRA) for vehicle model bid is not attached (initial) _____

Name of Bidder/Company Name _____

Type or Print Name _____

Signature of authorized representative _____ **Date** _____

Certificate of Compliance with Buy America Requirements for Steel, Iron, and Manufactured Products

Construction and Materials/Supplies Contracts over \$150,000

General Requirement (as stated in 49 CFR 661.5)

- (a) Except as provided in 49 CFR 661.7 and 49 CFR 661.11, no funds may be obligated by FTA for a grantee project unless all iron, steel, and manufactured products used in the project are produced in the United States.
- (b) All steel and iron manufacturing processes must take place in the United States, except metallurgical processes involving refinement of steel additives.
- (c) The steel and iron requirements apply to all construction materials made primarily of steel or iron and used in infrastructure projects such as, transit or maintenance facilities, rail lines, and bridges. These items include, but are not limited to, structural steel or iron, steel or iron beams and columns, running rail and contact rail. These requirements do not apply to steel or iron used as components or subcomponents of other manufactured products or rolling stock, or to bimetallic power rail incorporating steel or iron components.
- (d) For a manufactured product to be considered produced in the United States:
 - (1) All of the manufacturing processes for the product must take place in the United States; and
 - (2) All of the components of the product must be of U.S. origin. A component is considered of U.S. origin if it is manufactured in the United States, regardless of the origin of its subcomponents.

If steel, iron, or manufactured products (as defined in 49 CFR 661.3 and 661.5) are being procured, the appropriate certificate as set forth below shall be completed and submitted by each bidder or offeror in accordance with the requirement contained in 49 CFR 661.13(b).

COMPLIANCE with Buy America Requirements

The bidder or offeror hereby certifies that it will comply with the requirements of 49 U.S.C. 5323(j)(1), and the applicable regulations in 49 CFR part 661.

NON-COMPLIANCE with Buy America Requirements

The bidder or offeror hereby certifies that it **cannot** comply with the requirements of 49 U.S.C. 5323(j), but it may qualify for an exception to the requirement pursuant to 49 U.S.C. 5323(j)(2), as amended, and the applicable regulations in 49 C.F.R. 661.7.

Company _____

Name _____ Title _____

Signature _____ Date _____

Certificate of Compliance with Buy America Requirements for Rolling Stock

Revenue and Non-Revenue Vehicle Contracts over \$150,000

COMPLIANCE with Buy America Requirements

The bidder or offeror hereby certifies that it will comply with the requirements of 49 U.S.C. 5323(j), and the applicable regulations of 49 CFR 661.11.

NON-COMPLIANCE with Buy America Requirements

The bidder or offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j), but may qualify for an exception to the requirement consistent with 49 U.S.C. 5323(j)(2)(C), and the applicable regulations in 49 CFR 661.7.

Company _____

Name _____ **Title** _____

Signature _____ **Date** _____

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

Revenue and Non-Revenue Vehicle Contracts

The Proposer hereby certifies that it shall comply with the safety related FMVSS requirements in one of the following ways:

“ COMPLIANCE with FMVSS Requirements

The Proposer (if selected) shall submit a manufacturer’s FMVSS self-certification sticker indicating that the vehicle(s), _____, (number and description of vehicles) complies with relevant FMVSS requirements.

“ INAPPLICABILITY of FMVSS Requirements

The Proposer hereby certifies that the vehicles, _____ (number and description of vehicles) will not be subject to the Federal Motor Vehicle Safety Standards issued by the National Highway Traffic Safety Administration in 49 CFR part 571.

Date: _____

Authorized Signature: _____

Print Name: _____

Title: _____

Transit Vehicle Manufacturer (TVM) Certification

Revenue Vehicle Contracts

Pursuant to the provisions of Section 105(f) of the Surface Transportation Assistance Act of 1982, each bidder for this contract must certify that it has complied with the requirements of 49 CFR Part 26.49, regarding the participation of Disadvantaged Business Enterprises (DBE) in FTA assisted procurements of transit vehicles. Absent this certification, properly completed and signed, a bid shall be deemed non-responsive.

Certification:

I hereby certify, for the bidder named below, that it has complied with the provisions of 49 CFR Part 26.49 and that I am duly authorized by said bidder to make this certification.

BIDDER/COMPANY

Date _____

Name of Bidder/Company _____

Signature of Representative _____

Type or Print Name _____

Title _____

MISSOULA URBAN TRANSPORTATION DISTRICT

Federal Tax Liability and Recent Felony Convictions

I, _____, hereby certify
(Name and title of official)

on behalf of _____ that:
(Name of Bidder/Company Name)

1. The Bidder/Company
 - a. Does not have any unpaid federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; and
 - b. Was not convicted of the felony criminal violation under any federal law within the preceding 24 months.

Name of Bidder/Company Name

Type or Print Name

Signature of authorized representative _____ **Date**

Federal Certifications - MUTD

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

Revenue and Non-Revenue Vehicle Contracts

“ COMPLIANCE with FMVSS Requirements

As required by 49 CFR Part 663-Subpart D, the **Missoula Urban Transportation District** certifies that it received, at the pre-award stage, a copy of _____ (the manufacturer) self-certification information stating that the vehicles, _____ (number and description of vehicles), will comply with the relevant Federal Motor Vehicle Safety Standards issued by the National Highway Traffic Safety Administration in 49 CFR Part 571.

“ INAPPLICABILITY of FMVSS Requirements

As required by 49 CFR Part 663-Subpart D, the **Missoula Urban Transportation District** certifies that it received, at the pre-award stage, a statement from _____ (the manufacturer) indicating that the vehicles, _____ (number and description of vehicles), will not be subject to the Federal Motor Vehicle Safety Standards issued by the National Highway Traffic Safety Administration in 49 CFR Part 571.

Date: _____

Authorized Signature: _____

Print Name: _____

Title: _____

Pre-Award Purchaser's Requirements Certification

Revenue and Non-Revenue Vehicle Contracts

As required by 49 CFR part 663 – Subpart B, the **Missoula Urban Transportation District** certifies that:

- (a) The vehicle(s) to be purchased, _____ (number and description of vehicles) from _____ (the manufacturer), are the same product described in The District's solicitation specification, and

- (b) The proposed manufacturer is a responsible manufacturer with the capability to produce vehicles that meet the specifications set forth in the solicitation.

Date: _____

Authorized Signature: _____

Print Name: _____

Title: _____

MISSOULA URBAN TRANSPORTATION DISTRICT

Pre-Award Buy America Certification for Rolling Stock

Revenue Vehicle Contracts over \$150,000

Contractor shall complete and submit a declaration certifying either compliance or noncompliance with Buy America. If contractor certifies compliance with Buy America, it shall submit documentation listing:

- A. Component and subcomponent parts of the rolling stock to be purchased identified by manufacturer of the parts, their country of origin and costs; and
- B. The location of the final assembly point for the rolling stock, including a description of the activities that will take place at the final assembly point and the cost of final assembly.
- C. Solicitation Specification Requirements: Contractor shall submit evidence that it will be capable of meeting the bid specifications.
- D. Federal Motor Vehicle Safety Standards (FMVSS): Contractor shall submit 1) manufacturer's FMVSS self-certification sticker information that the vehicle complies with relevant FMVSS or 2) manufacturer's certified statement that the buses will not be subject to FMVSS regulations.

As required by Title 49 of the CFR, Part 663 – Subpart B, the **Missoula Urban Transportation District** is satisfied that the vehicles to be purchased, _____

(number and description of vehicles) from _____ (the manufacturer),

meet the requirements of Section 165(b)(3) of the Surface Transportation Assistance Act of 1982, as amended. The recipient or its appointed analyst _____ (the analyst – not the manufacturer or its agent), has reviewed documentation provided by the manufacturer, which lists (1) the proposed component and subcomponent parts of the buses identified by manufacturer, country of origin, and cost; and (2) the proposed location of the final assembly point for the buses, including a description of the activities that will take place at the final assembly point and the cost of final assembly.

Date: _____

Authorized Signature: _____

Print Name: _____

Title: _____

Post-Delivery Buy America Certification

Revenue Vehicle Contracts over \$150,000

COMPLIANCE with Buy America Requirements

As required by 49 CFR part 663 – Subpart C, the **Missoula Urban Transportation District** certifies that it is satisfied that the vehicles received, _____ (number and description of vehicles) from _____ (the manufacturer), meet the requirements of 49 U.S.C. 5323(j), as amended. The recipient, or its appointed auditor _____ (the auditor – not the manufacturer or its agent), has reviewed documentation provided by the manufacturer, which lists (1) the actual component and subcomponent parts of the vehicles identified by the manufacturer, country of origin, and cost; and (2) the actual location of the final assembly point for the vehicles, including a description of the activities that took place at the final assembly point and the cost of final assembly.

NON-COMPLIANCE with Buy America Requirements

As required by 49 CFR part 663 – Subpart C, the **Missoula Urban Transportation District** certifies that there is a letter from FTA which grants a waiver to the vehicles received, _____ (manufacturer, number and description of vehicles) from the Buy America requirements under 49 U.S.C. 5323(j), as amended.

Date: _____

Recipient Authorized Signature: _____

Print Name: _____

Title: _____

Post-Delivery Purchaser's Requirements Certification

Revenue and Non-Revenue Vehicle Contracts

Ten or Fewer Buses, or any Number of Unmodified Vans:

As required by 49 CFR part 663 – Subpart C, after visually inspecting and road testing the contract vehicles, the **Missoula Urban Transportation District** certifies that the vehicles, _____ (number and description of vehicles) from _____ (the manufacturer), meet the contract specifications.

For More than Ten Buses or Modified Vans:

As required by 49 CFR part 663 – Subpart C, the **Missoula Urban Transportation District** certifies that a resident inspector, _____ (the resident inspector – not an agent or employee of the manufacturer), was at _____'s (the manufacturer), manufacturing site during the period of manufacture of the vehicles, _____ (number and description of the vehicles). The inspector monitored manufacturing and completed a report on the manufacture of the vehicles, and provided accurate records of all vehicle construction activities. The report addresses how the construction and operation of the vehicles fulfill the contract specifications. After reviewing the report, visually inspecting the vehicles, and performance testing the vehicles, the recipient certifies that the vehicles meet the contract specifications.

Date: _____

Recipient Authorized Signature: _____

Print Name: _____

Title: _____

Post-Delivery Federal Motor Vehicle Safety Standards (FMVSS) Certification

Revenue and Non-Revenue Vehicle Contracts

“ COMPLIANCE with FMVSS Requirements

As required by 49 CFR Part 663-Subpart D, the **Missoula Urban Transportation District** certifies that it received, at the post-delivery stage, a copy of _____ (the manufacturer) self-certification information stating that the vehicles, _____ (number and description of vehicles), comply with the relevant Federal Motor Vehicle Safety Standards issued by the National Highway Traffic Safety Administration in 49 CFR Part 571.

“ NON-COMPLIANCE with FMVSS Requirements

As required by 49 CFR Part 663-Subpart D, the **Missoula Urban Transportation District** certifies that it received, at the post-delivery stage, a statement from _____ (the manufacturer) indicating that the vehicles, _____ (number and description of vehicles), are not subject to the Federal Motor Vehicle Safety Standards issued by the National Highway Traffic Safety Administration in 49 CFR Part 571.

Date: _____

Authorized Signature: _____

Print Name: _____

Title: _____



Staff Report

To: Board of Directors
From: Frank Kuhl
Date: June 25, 2026

Agenda Item: 5.5.2 Procurement Manual Update Review DRAFT Staff Report

Attachments:

- Simme Seat Contract
- FilmWest Contract
- JCCS Contract

Recommendation:

No recommendation

Discussion:

Mountain Line’s procurement policy authorizes the chief executive officer and general manager to execute contracts under \$80,000, with some exceptions.

Since the _____ board meeting, Mountain Line has executed the following contracts between \$25,000 under \$80,000:

- **Bus Stop Simme-Seat – \$30,000**
 - **Need/Purpose Statement**
 - To increase the comfort and usability of the system’s bus stops.
 - **Deliverables**
 - Purchase and install Simme-Seats
 - **Cost**
 - \$26,000 – Lump sum
 - **Funding Source**
 - Local funds
 - **Budgeted**
 - Yes
 - **Procurement Method**
 - Sole source



- **Duration/Options**
 - Work completed upon delivery
- **Firm Selected**
 - Simme-Seat
- **Reasoning**
 - Simme Seat-provides a unique and innovative concept that utilizes the bus sign pole to create seating at bus stops that otherwise would not be viable for seating infrastructure. It is the only vendor that provides this service and is responsive and responsible.
- **Agency Department Lead**
 - Thomas Williams
- **Communications Videography – \$33,650**
 - **Need/Purpose Statement**
 - This videography contract is part of a larger communications strategy to showcase Mountain Line.
 - **Deliverables**
 - 6 – 8 employee stories shorts for social media in :15 and :30 second versions.
 - 1 employee story in a 2 – 3-minute version for website/YouTube.
 - 6 – 8 rider stories shorts for social media in :15 and :30 second versions.
 - 1 rider story in a 2 – 3-minute version for website/YouTube.
 - 8 instructional videos (how to ride, bus safety tips, how to use the transit application, track your bus, accessibility features, tips for new riders, paratransit, service updates)
 - **Cost**
 - \$26,650 – Lump sum
 - **Funding Source**
 - Local funds
 - **Budgeted**
 - Yes
 - **Procurement Method**
 - Documented quotations
 - **Duration/Options**
 - May 12, 2025 – May 30, 2026
 - No options
 - **Firm Selected**
 - Film West
 - **Reasoning**
 - The selected vendor is Filmwest, a professional production company that demonstrated a clear understanding of the project’s goals and submitted a proposal that met all technical and creative requirements. Filmwest is a responsible contractor, with relevant experience, the necessary technical capabilities, and a track record of delivering similar work for public agencies. The



proposed price of \$23,650 was competitive and represented the best overall value.

- **Agency Department Lead**
 - Olga Kreimer
- **Agency Auditing Service**
 - **Need/Purpose Statement**
 - Each year, the agency contracts with a third party to conduct an audit of the financial department, procurements, and policies. The agency typically contracts with the audit firm for several years to produce an audit for each year.
 - **Deliverables**
 - 2024 Audit
 - 2025 Audit
 - 2026 Audit
 - **Cost**
 - 2024 Audit – \$30,750 – Lump sum
 - 2025 Audit – \$33,250 – Lump sum
 - 2026 Audit – \$35,750 – Lump sum
 - **Funding Source**
 - Local funds
 - **Budgeted**
 - Yes
 - **Procurement Method**
 - Request for proposal
 - **Duration/Options**
 - July 1, 2024 – June 30, 2027
 - No options
 - **Firm selected**
 - Junkermier, Clark, Campanella, Stevens, P.C.
 - **Reasoning**
 - JCCS offered a seasoned history of local government experience and proposed a competitive price.
 - **Agency Department Lead**
 - Allison Segal

Financial Impact and Funding Source:

Not applicable.

DBE Certified:

No.