**Procurement Planning/Solicitation Check List**

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| **Grantee:** | Click or tap here to enter text. |
| **Item to Procure:** | Click or tap here to enter text. |
| **Reviewed by:** | Click or tap here to enter text. |
| **Date of Review** | Click or tap to enter a date. |

| ***Regulation*** |  | ***State Only*** | ***Statewide*** | ***Sole Source*** | ***Small*** | ***Element Required*** | ***Element Documentation Location &/or Explanation, if required*** | ***TDOT Confirmation*** |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | **Planning** |
|  | **Specifications of Item/Service** |
| **4220.1F.III.3.a.(1)(a)****4220.1F.III.3.a.(1)(c)****4220.1F.VI.2.a.(1)** | **Description of the Item/Service to be Acquired**The solicitation and the contract awarded must include a clear and accurate description of the recipient’s technical requirements for the property or services to be acquired in a manner that provides for full and open competition. The description may include a statement of the qualitative nature of the property or services to be acquired. When practicable, the recipient should describe its requirements in terms of functions to be performed or level of performance required, including the range of acceptable characteristics or minimum acceptable standards. The Common Grant Rules for governmental recipients states that “Detailed product specifications should be avoided if at all possible.” Both Common Grant Rules express a preference for performance or functional specifications, but do not prohibit the use of detailed technical specifications when appropriate.Does there appear to be a clear and accurate statement for the item/service to be procured in the solicitation (this description/specifications should be used for planning purposes, e.g. on what to price for the independent estimate)? |  |  |  |  |  |  |  |
| **4220.1F.III.3.a.(1)(d)** | **Preference for Performance Specifications**The recipient is advised to describe technical requirements in terms of “functions to be performed or performance required, including the range of acceptable characteristics or minimum acceptable standards.” Are a range of acceptable characteristics included in specifications? |  |  |  |  |  |  |  |
| **4220.1F.III.3.a.(1)(e)****4220.1F.VI.2.a.(4)** | **Brand Name or Equal** – When it is impracticable or uneconomical to write a clear and accurate description of the technical requirements of the item/services to be acquired, a “brand name or equal” description may be used to define the performance or other salient characteristics of the property or services sought. The specific features or salient characteristics of the named brand which must be met by offerors of “an equal” proposal must be clearly stated. If a brand name or equal specification is used, does it describe the features of the brand which are required? |  |  |  |  |  |  |  |
| **4220.1F.IV.1.a.****4220.1F.IV.2.b.(1)****4220.1F.IV.2.b.(2)****4220.1F.IV.2.b.(4)**  | **Eligibility**Project costs must conform to applicable Federal cost principles for allowable costs. In general, costs must be necessary and reasonable, allocable to the project, authorized or not prohibited by Federal law or regulation, and must comply with Federal cost principles applicable to the recipient.Are the procurement items/services eligible expenses under and within the scope of the Federal program planned to fund the purchase? |  |  |  |  |  |  |  |
| **4220.1F.III.3.a.(2)****4220.1F.IV. 1.b.****2 CFR 200.318(d)** | **Necessity Determination*** The Common Grant Rules require the recipient to establish procedures to avoid the purchase of unnecessary property and services (including duplicative items and quantities or options it does not intend to use or whose use is unlikely). In monitoring whether a recipient has complied with its procedures to determine what property or services are unnecessary, FTA bases its determinations on what would have been a recipient’s reasonable expectations at the time the recipient entered into the contract.
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| **4220.1F.IV.1.b.****4220.1F.VI.2.a.(2)****2 CFR 200.318(d)** | **Necessity Determination – Determining the Recipient’s Needs**Does the planning analysis for the solicitation show that the procurement items/services are needed for this amount and at this time? |  |  |  |  |  |  |  |
| **4220.1F.IV.1.b.(1)****2 CFR 200.318(d)** | **Necessity Determination – Unnecessary Reserves**Does the planning analysis for the solicitation show that the number of items/services to be procured does not create duplicative items or unnecessary reserves (in particular, information about the recipient’s fleet to ensure that the recipient does not acquire more vehicles than it needs for public transportation service in its service area.)? |  |  |  |  |  |  |  |
| **4220.1F.IV.1.b.(2)(a)****2 CFR 200.318(d)** | **Necessity Determination – Prohibition of Assignment Quantities**Does the planning analysis for the solicitation show that the amount of the procurement does not consider amounts solely to permit assignment to another party? |  |  |  |  |  |  |  |
| **4220.1F.IV.1.c.(2)****2 CFR 200.318(d)** | **Necessity Determination – Procurement Size – Small Procurement Break Out**Breaking out procurements may provide greater opportunities for Disadvantaged Business Enterprises (DBEs), small and minority firms, and women’s business enterprises to participate. Absent efforts to foster greater opportunities for DBEs, small and minority firms, and women’s business enterprises, the recipient should not split a large procurement merely to gain the advantages of small purchase available for federally assisted procurements.Does the planning for the solicitation show that the amount/quantity of the procurement items/services was not divided or was divided only for economic opportunities or DBE opportunities, but not to avoid the requirements of a higher level procurement? |  |  |  |  |  |  |  |
| **4220.1F.IV.1.d.** | **Necessity Determination – Options**The recipient’s contracts may include options to ensure the future availability of property or services, so long as the recipient is able to justify those options as needed for its public transportation or project purposes. An option is a unilateral right in a contract by which, for a specified time, a recipient may acquire additional equipment, supplies, or services than originally procured. An option may also extend the term of the contract.Does the solicitation describe option specifications for the procurement?The subrecipient based the number of options on its reasonably foreseeable need and evaluated the option price prior to awarding the contract. |  |  |  |  |  |  |  |
| **4220.1F.III.3.a.(3)****2 CFR 200.318(d)** | **Necessity Determination – Lease versus Purchase**To obtain the best value, the recipient should review lease versus purchase alternatives for acquiring property and, if necessary, should obtain an analysis to determine the more economical alternative. The recipient may use FTA capital assistance to finance the costs of leasing eligible property if leasing is more cost effective than full ownership. Before the recipient may lease an asset, FTA regulations, “Capital Leases,” 49 CFR Part 639, Subpart C, require the recipient to make a written comparison of the cost of leasing the asset compared with the cost of purchasing or constructing the asset. Costs used in the comparison must be reasonable, based on realistic current market conditions, and based on the expected useful service life of the asset.Does the solicitation describe a lease procurement, and if so, does the procurement planning documentation include a lease versus purchase analysis? |  |  |  |  |  |  |  |
| **4220.1F.IV.2.b.(3)** | **Period of Performance Planning** |
| **4220.1F.IV.2.b.(3)** | **Period of Performance**The period of performance generally should not exceed the time necessary to accomplish the purpose of the contract. The recipient should also consider competition, pricing, fairness, and public perception. Planning records for the procurement document the performance period to be requested in the solicitation and awarded in the contract? |  |  |  |  |  |  |  |
| **4220.1F.IV.2.e.(10)****49 USC §5325I(1)** | **Period of Performance – Rolling Stock – Time Limits for Options on Contracts**5 year limit on bus contracts. Any non-rolling stock contract over 5 years must have sound business rationale documented. |  |  |  |  |  |  |  |
| **4220.1F.IV.2.b.(3)** | **Period of Performance – Rationale**The period of performance generally should not exceed the time necessary to accomplish the purpose of the contract. The recipient should also consider competition, pricing, fairness, and public perception. Planning records for the procurement document recipient’s rationale for determining the performance period designated? |  |  |  |  |  |  |  |
|  | **Payment Provisions Planning** |
| **4220.1F.IV.2.b.(5)(a)****4220.1F.IV.2.b.(5)(b)****4220.1F.IV.2.b.(5)(c)** | **Payment Provisions**The recipient may use its own funds to finance its contracts. However, if the recipient intends to use FTA assistance, expects to be reimbursed with FTA assistance, or dedicates its local share funds to support contract costs it has financed, then it must structure its payment provisions carefully.Are the planned timing of payment provisions of the solicitation and contract after the time in which the federal funds to be used for reimbursement have already been awarded or planned to be awarded? |  |  |  |  |  |  |  |
| **4220.1F.VI.1.c.** | **Prequalification Procedure Analysis** |
| **4220.1F.VI.1.c.(1)****4220.1F.VI.2.a.(4)(a)** | **Prequalification – Lists**Prequalification lists are most commonly used in procurements of property involving lengthy evaluations needed to determine whether it satisfies the recipient’s standards. The Common Grant Rule for governmental recipients permits a recipient to prequalify people, firms, and property for procurement purposes.If a prequalification list will be used, the list is kept current? |  |  |  |  |  |  |  |
| **4220.1F.VI.1.c.(2)****4220.1F.VI.2.a.(4)(a)** | **Prequalification – Sources**The list includes enough qualified sources to provide full and open competition? |  |  |  |  |  |  |  |
| **4220.1F.VI.1.c.(3)****4220.1F.VI.2.a.(4)(a)** | **Prequalification – Qualification Period**The recipient permits potential bidders or offerors to qualify during the solicitation period (from the issuance of the solicitation to its closing date)?FTA, however, does not require a recipient to hold a particular solicitation open to accommodate a potential supplier that submits property for approval before or during that solicitation. Nor must a recipient expedite or shorten prequalification evaluations of bidders, offerors, or property presented for review during the solicitation period. |  |  |  |  |  |  |  |
| **4220.1F.VI.2.a.(4)** | **Requirements Analysis – Avoid Prohibited Requirements that Restrict Competition*** In planning the solicitation an analysis should be completed of the solicitation requirements to identify and eliminate any issues that might unduly restrict competition. In addition, recipients are prohibited from using FTA assistance to support an exclusionary or discriminatory specification. Review the requirements and remove any of the following items which are considered to be impermissibly restrictive of competition.
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| **4220.1F.VI.2.a.(4)(a)****2 CFR 200.319(b)(1)** | **Requirements Analysis – Not Restrictive of Competition – Unreasonable Requirements**Do the solicitation specifications avoid placing unreasonable requirements on firms in order for them to qualify to do business? |  |  |  |  |  |  |  |
| **4220.1F.VI.2.a.(4)(b)****2 CFR 200.319(b)(2)** | **Requirements Analysis – Not Restrictive of Competition – Unnecessary Experience**Do the solicitation specifications avoid requiring unnecessary experience? |  |  |  |  |  |  |  |
| **4220.1F.VI.2.a.(4)I** | **Requirements Analysis – Not Restrictive of Competition – Improper Prequalification**If prequalification is used, it must allow qualification during the solicitation period. The solicitation period, however, is not required to be extended for a bidder who initiated the process late, to become qualified. The prequalification timing procedures policy should guide. |  |  |  |  |  |  |  |
| **4220.1F.VI.2.a.(4)(d)****2 CFR 200.319(b)(4)** | **Requirements Analysis – Not Restrictive of Competition – Retainer Contracts**Making a noncompetitive award to any person or firm on a retainer contract with the recipient if that award is not for the property or services specified for delivery under the retainer contract. |  |  |  |  |  |  |  |
| **4220.1F.VI.2.a.(4)I****2 CFR 200.319(b)(2)** | **Requirements Analysis – Not Restrictive of Competition – Excessive Bonding**The solicitation does not impose excessive bonding requirements? |  |  |  |  |  |  |  |
| **4220.1F.VI.2.a.(4)(f)****2 CFR 200.319(b)(6)** | **Requirements Analysis – Not Restrictive of Competition – Brand Name Only**The solicitation cannot specify a “name brand” without allowing an equal product, or allowing an equal product but not listing the salient characteristics that the equal product must meet to be acceptable. |  |  |  |  |  |  |  |
| **4220.1F.VI.2.a.(4)(g)** | **Requirements Analysis – Not Restrictive of Competition – Geographic Restrictions**Specifying in-State or local geographical preferences, or evaluating bids or proposals in light of in-State or local geographic preferences, even if those preferences are imposed by State or local laws or regulations. In particular, 49 U.S.C. Section 5325(i) prohibits an FTA recipient from limiting its bus purchases to in-State dealers. There is an exception for A&E services. |  |  |  |  |  |  |  |
| **4220.1F.VI.2.a.(4)(h)****2 CFR 200.319(b)(5)** | **Requirements Analysis – Not Restrictive of Competition – Organizational Conflicts of Interest**Organizational conflicts of interest occur when the contractor has a lack of impartiality or impaired objectivity, the contractor has an unfair competitive advantage through obtaining access to nonpublic information during the performance of an earlier contract or the contractor has established the ground rules for the procurement by developing specifications, evaluation factors, or similar documents.The recipient needs to analyze the acquisition in order to identify and evaluate potential organizational conflicts of interest as early in the acquisition process as possible, and avoid, neutralize, or mitigate potential conflicts before contract award. |  |  |  |  |  |  |  |
| **4220.1F.VI.2.a.(4)(i)****2 CFR 200.319(b)(3)** | **Requirements Analysis – Not Restrictive of Competition – Restraint of Trade**Supporting or acquiescing in noncompetitive pricing practices between firms or between affiliated companies. Questionable practices would include, but not be limited to submissions of identical bid prices for the same products by the same group of firms, or an unnatural pattern of awards that had the cumulative effect of apportioning work among a fixed group of bidders or offerors. |  |  |  |  |  |  |  |
| **4220.1F.VI.2.a.(4)(j)****2 CFR 200.319(b)(7)** | **Requirements Analysis – Not Restrictive of Competition – Arbitrary Action**No unrelated requirements to the item/service procured or arbitrary actions are required? |  |  |  |  |  |  |  |
| **4220.1F.VI.6.****2 CFR §200.324(a)** | **Pre-Solicitation Independent Estimate*** The recipient must make independent estimates before receiving bids/proposals
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| **4220.1F.VI.6.****2 CFR §200.324(a)** | **Pre-Solicitation Independent Estimate**Did the recipient complete an independent estimate in the planning documentation for the item/services to be procured before the solicitation? |  |  |  |  |  |  |  |
|  | **Procurement Method and Contract Type Selection** |
| **4220.1F.III.3.a.(6)****State Contract D.20. Clause** | **Procurement Method**Which procurement method is selected?* Micro-Purchase
* Small Purchase
* Formal Purchase
* Bid
* Proposal
* Two-Step
* Qualifications Base (Brooks Act – Architectural & Engineering)
* Statewide Contract Procurement
* State Fund Only Procurement
* Sole Source
 |  |  |  |  |  |  |  |
| **4220.1F.III.3.d.(1)(a)****2 CFR 200.318(i)** | **Rationale for the Selection of the Method of Procurement**In the procurement planning documentation does the recipient provide its rationale for the method of procurement it used for the award?  |  |  |  |  |  |  |  |
| **4220.1F.IV.2.e.(9)****49 USC §5325(f)** | **Rolling Stock – Basis for Contract Award**As permitted by 49 U.S.C. §5325(f), the recipient may award a third party contract for rolling stock based on initial capital costs, or based on performance, standardization, life cycle costs, and other factors, or by selection through a competitive procurement process.Consideration for next question, rationale of Method of Procurement? |  |  |  |  |  |  |  |
| **4220.1F.III.3.d.(1)(a)** | **Contract Type**The specifications should identify which contract type is selected.* Firm Fixed Price – Payment for fixed total amount or amount per unit
* May include an economic price adjustment provision, incentives, or both
* Cost Reimbursement – Payment for reimbursement of contractor’s allowable incurred costs
* May include incentives if believed they can prove to be helpful
* Only when Firm Fixed Price can’t be used due to uncertainties of estimation for fixed cost
* Time and Materials
* Restricted use, only after determined other types are not suitable
* The contract must specify the contractor may not exceed ceiling price
 |  |  |  |  |  |  |  |
| **4220.1F.III.3.d.(b)****2 CFR 200.318(i)** | **Rationale for the Selection of the Contract Type**Did the recipient state the reasons for selecting the contract type for the solicitation? |  |  |  |  |  |  |  |
| **4220.1F.VI.3.c.(1)(b)****4220.1F.VI.3.d.(1)(b)** | **Adequate Responsible Bidders**Two or more responsible bidders are willing and able to compete effectively for the business, if not, the result may be a sole source procurement or a procurement that requires a single source analysis due to only one adequate bidder result.Does the solicitation planning documentation give an indication of the number of responsible bidders that may reply? |  |  |  |  |  |  |  |
| **4220.1F.VI.3.c.(2)(a)** | **Publicity/Advertising** |
| **4220.1F.VI.3.c.(2)(a)****4220.1F.VI.3.d.(2)(a)** | **Publicity Planning – Plan**For other than sole source procurements, the solicitation must be publicly advertised.Does the solicitation planning documentation show the plan for the solicitation is to be publicly advertised? |  |  |  |  |  |  |  |
| **4220.1F.IV.2.a.(6)(b)****2 CFR 200.321** | **Publicity Planning – Small and Minority Firms and Women’s Business Enterprises** Does the solicitation take steps to ensure that it uses small and minority firms and women’s business enterprises, irrespective of whether they qualify as DBEs, to the fullest extent practicable? The following steps demonstrate compliance.* Is information about the procurement opportunity available to potentially qualified firms and are they included on solicitation lists?
* Have considerations been made as to the delivery schedule which encourage small, minority, and women’s business enterprise participation?
* Are services of the TDOT Civil Rights Division DBE Section, SBA, and Dept of Commerce Minority Business Development Agency consulted regarding the procurement?
* Are the preceding provisions required to be included in third party contractor’s provisions for sub-contracts?
* In publicity plans – Are small, minority, and women’s business enterprises solicited as a potential source?
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| **4220.1F.IV.2.e.(8)****49 U.S.C. Section 5325(i)** | **Publicity Planning – In-State Dealers**The recipient may not limit its third party bus (Rolling Stock) procurements to its in-State dealers.  |  |  |  |  |  |  |  |
| **4220.1F.VI.3.i.(1)(b)1****2 CFR §200.320(c)(2)** | **Sole Source Procurement*** When the recipient requires items/services available from only one responsible source.
* If make a change to a contract that is beyond the scope of the contract, that is a sole source award that must be justified.
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| **4220.1F.VI.3.i.(1)(b)1** | **Sole Source**When the recipient requires supplies or services available from only one responsible source, and no other supplies or services will satisfy its requirements, the recipient may make a sole source award. When the recipient requires an existing contractor to make a change to its contract that is beyond the scope of that contract, the recipient has made a sole source award that must be justified under one of the bases below. Does the recipient document their justification for completing a sole source procurement? |  |  |  |  |  |  |  |
| **FTA Best Practices Procurement & Lessons Learned Manual** **(October 2016) Pg 97-98** | **Sole Source – Justification**Procurement by sole source is a noncompetitive procurement. The use of this method of procurement must be justified, and, frequently, pre-approval must be obtained before a sole source contract is executed. In this context, “justification” equates to documentation of the proposed action. Contracting officers should take reasonable steps to avoid using sole source procurements except in circumstances where it is both necessary and in the best interest of the agency. The recipient must determine whether or not there is a valid justification to obtain the product or service using the sole source method without risking the use of Federal funds for those purposes. FTA permits use of Federal funds for sole source procurements if at least one of the following circumstances is present: (1) The item is available only from a single source. Unique capability or availability must be definitively established.(2) The public exigency or emergency for the procurement will not permit a delay resulting from competitive solicitation. Health and safety issues may be an adequate basis for a public exigency or emergency. (3) When the agency’s need for the supplies or services is of such an unusual or compelling urgency that the agency would be seriously injured unless sole source procurements were utilized. Is the recipient’s justification of a sole source procurement based on that the item is available only from a single source, the public exigency or emergency will not permit delay in the procurement, the need for supplies or services is of an unusual and compelling urgency that the agency will be seriously injured unless a sole sore procurement is used, or FTA has approved the sole source procurement in a written response of the recipient and an agency manager has approved the procurement request? |  |  |  |  |  |  |  |
| **4220.1F.VI.3.i.(1)(b)1a****4220.1F.VI.3.i.(1)(b)1b****4220.1F.VI.3.i.(1)(b)1c****4220.1F.VI.3.i.(1)(b)1d** | **Sole Source – Unique Capability or Availability**The property or services are available from one source if one of the conditions described below is present: 1. *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, the details of which are kept confidential or are patented or copyrighted and is available to the recipient only from one source and has not in the past been available to the recipient from another source.
2. *Patents or Restricted Data Rights* – Patent or data rights restrictions preclude competition.
3. *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.
4. *Unacceptable Delay* – In the case of a follow-on contract for the continued development or production of a 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.

The recipient’s reason for a sole source procurement is that it is not only available from one source or that it is only available from one source and the documented justification sufficiently explains that the need for a sole source procurement is based upon a unique or innovative concept, patents or restricted data rights, substantial duplication costs, or unacceptable delay? (Recipient must be explicit in describing how these exceptions apply.) |  |  |  |  |  |  |  |
| **FTA Best Practices Procurement & Lessons Learned Manual** **(October 2016) Pg 98** | **Sole Source – Invalid Excuses**It will be difficult to justify use of the sole source procurement method if the agency itself is responsible for the situation. For example, lack of advance planning, delays in procurement administration due to a shortage of procurement personnel or the incompetence of procurement personnel, and insufficient funds due to budgeting constraints may not be a sufficient justification for classifying a needed procurement action as urgent or compelling. In these instances, an independent opinion is warranted.Does the recipient’s justification demonstrate that the need for the sole source procurement is not due to the lack of advance planning, shortage of or incompetence of procurement personnel, or insufficient funds? |  |  |  |  |  |  |  |
| **4220.1F.VI.3.i.(3)(c)** | **Sole Source – Cost Analysis**For a sole source procurement, the recipient must prepare or obtain a cost analysis verifying the proposed cost data, the projections of the data, and the evaluation of the costs and profits.The recipient’s sole source procurement cost analysis is completed? |  |  |  |  |  |  |  |
|  | **Solicitation** |
| **4220.1F.VI.2.c.** | **Specifications – Contract Type Specified**Do the solicitation specifications state the type of contract that will be awarded? |  |  |  |  |  |  |  |
| **4220.1F.VI.2.c.(2)** | **Specifications – Cost Plus Percentage of Cost Type of Contract Not Used**Confirm that the subrecipient did not use the cost plus percentage of cost type of contracting. |  |  |  |  |  |  |  |
| **4220.1F.III.3.a.(1)(a)****4220.1F.III.3.a.(1)(c)****4220.1F.VI.2.a.(1)** | **Specifications – Description of the Item/Services to be Acquired**The solicitation and the contract awarded must include a clear and accurate description of the recipient’s technical requirements for the property or services to be acquired in a manner that provides for full and open competition. The description may include a statement of the qualitative nature of the property or services to be acquired. When practicable, the recipient should describe its requirements in terms of functions to be performed or level of performance required, including the range of acceptable characteristics or minimum acceptable standards. The Common Grant Rules for governmental recipients states that “Detailed product specifications should be avoided if at all possible.” Both Common Grant Rules express a preference for performance or functional specifications, but do not prohibit the use of detailed technical specifications when appropriate.Does there appear to be a clear and accurate statement for the item/service to be procured in the solicitation (specifications should reflect those developed in the planning stage)? |  |  |  |  |  |  |  |
| **4220.1F.III.3.a.(4)****4220.1F.IV.2.d.(2)****Executive Order 12770** | **Specifications – Metric Measurements**Requirement that the recipient accept items/ services with dimensions expressed in metric measurements, to the extent practicable and feasible.Does the solicitation allow receiving items/services with dimensions expressed in metric measurements, unless not practicable and feasible? |  |  |  |  |  |  |  |
| **4220.1F.IV.2.d.(3)****31 USC §5312(p)** | **Specifications – Use of $1 Coins**To comply with Section 104 of the Presidential $1 Coin Act, FTA assisted property that requires the use of coins or currency in public transportation service or supporting service must be fully capable of accepting and dispensing $1 coins.Do the specifications of the solicitation that require the use of coins or currency in public transportation service or supporting service state that it must be fully capable of accepting and dispending $1 coins? |  |  |  |  |  |  |  |
| **4220.1F.IV.2.e.(3)****FTA Circular 5010.1****FTA Circular 9030.1****FTA Circular 9300.1** | **Specifications – Minimum Service Life**FTA requires each recipient to maintain satisfactory continuing control of FTA assisted property. For buses and certain other vehicles, FTA has established minimum service life policies that may affect the quantity of vehicles that the recipient may acquire.The expected service life specification requirement in the solicitation is not less than the required minimum service life? |  |  |  |  |  |  |  |
| **4220.1F.IV.2.b.(6)** | **Protections Against Performance Difficulties**The solicitation should be planned to reduce potential problems that might occur during contract performance.FTA has determined that a recipient may use liquidated damages if the recipient reasonably expects to suffer damages through delayed contract completion, or if weight requirements are exceeded, and the extent or amount of such damages are uncertain and would be difficult or impossible to determine. The rate and measurement standards must be calculated to reasonably reflect the recipient’s costs should the standards not be met, **and must be specified in the solicitation and contract.** The assessment for damages is often established at a specific rate per day for each day beyond the contract’s delivery date or performance period. A measurement other than a day or another period of time, however, may be established if that measurement is appropriate, such as weight requirements in a rolling stock purchase**. The procurement file should include a record of the calculation and rationale for the amount of damages established.** Any liquidated damages recovered must be credited to the project account involved unless FTA permits otherwise.”Are liquidated damages used as a remedy to suffering damages from nonperformance of some type (liquidated damages clause is optional but must be in the solicitation and contract if used)? |  |  |  |  |  |  |  |
| **4220.1F.VI.7.** | **Evaluation*** Bids and offers must be evaluated on only the evaluation factors included in the solicitation documents.
* The recipient may not modify its evaluation factors after bids or proposals have been submitted without re-opening the solicitation.
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| **4220.1F.VI.2.b.****4220.1F.VI.7.** | **Evaluation – Factors**The solicitation must disclose all evaluation factors and their relative importance, but numerical weights need not be disclosed.Does the solicitation identify all factors to be used in evaluating bids/proposals? |  |  |  |  |  |  |  |
| **4220.1F.VI.7.** | **Evaluation – Options**If options will be considered, do the solicitation documents explain that the options will be included in the evaluation? |  |  |  |  |  |  |  |
| **4220.1F.VI.2.f.** | **Award to other than The Low Bidder**If the recipient intends to reserve its right to award to other than the low bidder, is that information stated in the solicitation document? |  |  |  |  |  |  |  |
| **4220.1F.VI.2.g.** | **Rejection of All Bids or Offers**If the recipient intends. to reserve the right to reject all bids, is that information stated in the solicitation document? |  |  |  |  |  |  |  |
| **4220.1F.VII.1.a.(1)** | **Protest Procedures** |
| **4220.1F.VII.1.a.(1)** | **Protest Procedures**FTA expects each recipient to have appropriate written protest procedures, as part of its requirement to maintain or acquire adequate technical capacity to implement the project. Protest procedures must be available to bidders and the public.Does the subrecipient make protest procedures available to bidders in the solicitation? |  |  |  |  |  |  |  |
| **4220.1F.III.1.a.****4220.1F.III.1.b.****4220.1F.III.1.c.** | **Personal Conflicts of Interest****Gifts****Violations**The solicitation requests disclosure of any conflicts of interest? |  |  |  |  |  |  |  |
|  | Optional: The recipient could receive some assistance in preparing a cost analysis from the bidder in cases when there is only a single bid or only one adequate proposal result.Does the solicitation request assistance in preparing a cost analysis in the case of a single adequate bid or single adequate proposal result? |  |  |  |  |  |  |  |
| **4220.1F.IV.2.i.** | **Construction** |
| **4220.1F.IV.2.i.(1)(a)****2 CFR §200.326(a)** | **Construction – Bonding**Bid Guarantee – Contractor needs bid guarantee for 5% of bid price.Required above Simplified Acquisition Threshold. |  |  |  |  |  |  |  |
| **4220.1F.IV.2.i.(1)(b)****2 CFR §200.326(b)** | **Construction – Bonding**Performance Bond – Contractor needs a performance bond for 100% of contract price.Required above Simplified Acquisition Threshold. |  |  |  |  |  |  |  |
| **4220.1F.IV.2.i.(1)(c)****2 CFR §200.326(c)** | **Construction – Bonding**Payment Bond – Contractor needs a payment bond for 100% of contract price.Required above Simplified Acquisition Threshold. |  |  |  |  |  |  |  |
| **4220.1F.IV.2.i.(1)(d)** | **Construction – Bonding**Explained in solicitationAny bonding request in the solicitation that is above the required doesn’t appear to restrict competition? |  |  |  |  |  |  |  |
| **4220.1F.IV.2.i.(5)****2 CFR 200 Appendix II (D)** | **Construction – Prevailing Wages**Davis-Bacon wage determinations requirement explained in solicitation and included in contract documents. |  |  |  |  |  |  |  |
| **4220.1F.VI.3.c.** | **Sealed Bid (Formal Advertising) Procurement*** Publicly solicited
* A firm fixed price contract (lump sum or unit price), usually
* Awarded to a responsible bidder
* Conform to all the material terms and conditions of the invitation for bids
* For the lowest in price
 |
| **4220.1F.VI.3.c.(1)(a)** | **Sealed Bid – Precise Specifications**The seal bid solicitation has a complete, adequate, precise, and realistic specification of purchase or description that will enable a prospective bidder to submit a proper bid? |  |  |  |  |  |  |  |
| **4220.1F.VI.3.c.(1)(b)** | **Sealed Bid – Adequate Sources**There are two or more responsible bidders willing and able to effectively compete for the business? |  |  |  |  |  |  |  |
| **4220.1F.VI.3.c.(1)(c)** | **Sealed Bid – Fixed Price Contract**A firm fixed price contract is usually awarded in writing to the lowest responsive and responsible bidder, but a fixed price incentive contract or inclusion of an economic price adjustment provision can sometimes be appropriate. When specified in the bidding documents, factors such as transportation costs and life cycle costs affect the determination of the lowest bid; payment discounts are used to determine the low bid only when prior experience indicates that such discounts are typically taken. |  |  |  |  |  |  |  |
| **4220.1F.VI.3.c.(1)(d)** | **Sealed Bid – Price Determinative Evaluation Factor**The successful bidder is to be selected on the basis of solicitation price and price-related factors and not on other factors that cannot be measured at the time of the award (and not on the basis of contract factors other than the responsible determination following)? |  |  |  |  |  |  |  |
| **4220.1F.VI.3.c.(1)(e)** | **Sealed Bid – Discussions Unnecessary**The solicitation does not include discussions with bidders after the bids have been submitted (This does not affect a pre-bid conference with prospective bidders before bids have been received)? |  |  |  |  |  |  |  |
| **4220.1F.VI.3.c.(2)(a)** | **Sealed Bid – Publicity**The invitation to bid will be publicly advertised? |  |  |  |  |  |  |  |
| **4220.1F.VI.3.c.(2)(d)** | **Sealed Bid – Sufficient Time**The solicitation allows for sufficient time to prepare bids before the date of bid opening? |  |  |  |  |  |  |  |
| **4220.1F.VI.3.c.(2)(e)** | **Sealed Bid – Public Opening**The solicitation gives the time and place prescribed for the public opening of bids? |  |  |  |  |  |  |  |
| **4220.1F.VI.3.c.(2)(f)** | **Sealed Bid – Rejection of Bids**Does the solicitation disclose that any and all bids may be rejected if there are sound, documented business reasons? |  |  |  |  |  |  |  |
| **4220.1F.VI.3.d.** | **Competitive Proposal (Request for Proposal) Procurement*** Procurement doesn’t appear to fit sealed bid procurement
 |
| **4220.1F.VI.3.d.(1)(a)** | **Competitive Proposal – Performance Specifications**The property or services to be acquired are described in a performance or functional specification; or if described in detailed technical specifications, other circumstances such as the need for discussions or the importance of basing the contract award on factors other than price alone are present.Are descriptions of specifications more of a performance nature or based on the importance of factors other than price? |  |  |  |  |  |  |  |
| **4220.1F.VI.3.d.(1)(b)** | **Competitive Proposal – Sources**Adequate number of sources (two) required but uncertain as to the response from bidders.Is it expected that there will be at least two responses from bidders? |  |  |  |  |  |  |  |
| **4220.1F.VI.3.d.(1)(d)** | **Competitive Proposal – Discussions Expected**Discussions with individual bidders are expected to be necessary after they have submitted their proposals (Note that discussions are not required.)? |  |  |  |  |  |  |  |
| **4220.1F.VI.3.d.(2)(a)** | **Competitive Proposal – Publicity**The request for proposal will be publicly advertised? |  |  |  |  |  |  |  |
| **4220.1F.VI.3.d.(2)(b)****2 CFR §200.320(b)(2)(ii)** | **Competitive Proposal – Evaluation Factors**The non-Federal entity must have a written method for conducting technical evaluations of the proposals received and making selections.All evaluation factors for technical merit and their relative importance are specified in the solicitation (numerical or percentage ratings or weights need not be disclosed)? |  |  |  |  |  |  |  |
| **4220.1F.VI.3.d.(2)(e)****PSR Guidebook 4.3.4** | **Competitive Proposal – Evaluation Factors – Price and Other Factors**An award is made to the responsible offeror whose proposal is most advantageous to the recipient’s program with price and other factors considered. The solicitation must also advise offerors whether price is approximately equal to, less than, or greater in importance than the technical and non-price evaluation factors as a whole.Does the solicitation describe the factors to be used to evaluate and select the winning proposal, advise offerors whether price is approximately equal to, less than, or greater in importance than the technical and non-price evaluation factors as a whole, and that the proposal most advantageous to the recipient will be selected? |  |  |  |  |  |  |  |
| **4220.1F.VI.3.d.(2)(f)** | **Competitive Proposal – Evaluation Factors – Best Value**The recipient may award the contract to the offeror whose proposal provides the greatest value to the recipient. To do so, the recipient’s solicitation must inform potential offerors that the award will be made on a “best value” basis and identify what factors will form the basis for award. The evaluation factors for a specific procurement should reflect the subject matter and the elements that are most important to the recipient. Those evaluation factors may include, but need not be limited to, technical design, technical approach, length of delivery schedules, quality of proposed personnel, past performance, and management plan. The recipient should base its determination of which proposal represents the “best value” on an analysis of the tradeoff of qualitative technical factors and price or cost factors. Apart from the statutory requirement that the contract must support the recipient’s public transportation project consistent with applicable Federal laws and regulations, FTA does not require any specific factors or analytic process.Does the solicitation inform potential bidders that the award will be made on a “best value” basis and identify what factors will form the basis for the award? |  |  |  |  |  |  |  |
| **4220.1F.VI.3.e.** | **Two-Step (Sealed Bidding or Competitive Negotiations)*** Second step can use either Bids or Proposals to evaluate bids
* Should attempt to solicit bids/proposals from three qualified sources
 |
| **4220.1F.VI.3.e.** | **Two-Step**Does the solicitation explain that a two-step procedures procurement will be used? |  |  |  |  |  |  |  |
| **4220.1F.VI.3.e.(1)** | **Two-Step – First Step: Review of Technical Qualifications and Approach**The first step is a review of the prospective contractors’ technical approach to the recipient’s request and technical qualifications to carry out that approach. The recipient then may narrow the competitive range to prospective contractors that demonstrate a technically satisfactory approach and have satisfactory qualifications.Does the solicitation explain the first step is a review of the bidders’ technical approach to the recipient request and the technical qualifications to carry out that approach? |  |  |  |  |  |  |  |
| **4220.1F.VI.3.e.(1)** | **Two-Step**Does the solicitation explain that during the first step, bidders may be narrowed to those that have a satisfactory approach and have satisfactory qualifications? |  |  |  |  |  |  |  |
| **4220.1F.VI.3.e.(2)** | **Two-Step – Review of Bids and Proposals Submitted by Qualified Prospective Contractors**All qualified bidders from step one must be considered.Does the solicitation explain that all qualified bidders from step one will be considered for step two? |  |  |  |  |  |  |  |
| **4220.1F.VI.3.e.(2)** | **Two-Step**For a two step process procurement that will use the bid process, does the solicitation explain that the bid process will be used – “two-step sealed bidding”?(Also use the bid checklist if the bid format will be used.) |  |  |  |  |  |  |  |
| **4220.1F.VI.3.e.(2)** | **Two-Step**For a two step process procurement that will used the proposal process, does the solicitation explain that the proposal process will be used – “competitive negotiation”?(Also use the proposal checklist if the proposal format will be used.) |  |  |  |  |  |  |  |
| **4220.1F.VI.3.f.****4220.1F.IV.2.h.** | **Architectural & Engineering (A&E) Services and Other Services Procurement*** Brooks Act qualifications-based procurement procedures.
* The work must be related to construction but not for construction procurement.
* To acquire Architectural & Engineering services, also for program management, construction management, feasibility studies, preliminary engineering, design, architectural, engineering, surveying, mapping, and related services.
 |
| **4220.1F.VI.3.f.(1)** | **A&E – Qualifications-Based Procurement Procedures Required**The recipient must use qualifications-based procurement procedures not only when contracting for A&E services, but also for other services listed in 49 U.S.C. Section 5325(b)(1) that are directly in support of, directly connected to, directly related to, or lead to construction, alteration, or repair of real property.Does the solicitation describe A&E services to be procured? |  |  |  |  |  |  |  |
| **4220.1F.VI.3.f.(2)** | **A&E – Qualifications-Based Procurement Procedures Prohibited**If the services are not related to or lead to construction, they are not eligible for A&E procurement procedures. Actual construction, alteration, or repair to real property are not procurements eligible for qualifications-based procurement.Does the solicitation describe services that lead to construction?  |  |  |  |  |  |  |  |
| **4220.1F.VI.3.f.(3)(a)** | **A&E – Qualifications Based**The bidders qualifications are evaluated to determine the contract award.Does the solicitation explain that the bidder’s qualifications will be evaluated to determine the contract award? |  |  |  |  |  |  |  |
| **4220.1F.VI.3.f.(3)(b)** | **A&E – Price Excluded**Does the solicitation explain that price is excluded as an evaluation factor? |  |  |  |  |  |  |  |
| **4220.1F.VI.3.f.(3)(c)** | **A&E – Most Qualified**Does the solicitation explain that negotiations are conducted first with the most qualified offeror? |  |  |  |  |  |  |  |
| **4220.1F.VI.3.f.(3)(d)** | **A&E – Next Most Qualified**Does the solicitation explain that 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? |  |  |  |  |  |  |  |
| **4220.1F.VI.3.f.(4)(a)** | **A&E – Performance of Audit**Does the solicitation explain that the contract will be audited in compliance with cost principles? |  |  |  |  |  |  |  |
| **4220.1F.VI.3.f.(4)(b)** | **A&E – Indirect Cost Rates**Does the solicitation explain that the contractor must accept indirect cost rates established by a cognizant Federal or State agency and that those rates will apply for purposes of contract estimation, negotiation, administration, reporting, and payments? |  |  |  |  |  |  |  |
| **4220.1F.VI.3.f.(4)(d)** | **A&E – Confidentiality of Data; Prenotification**Before requesting or using cost or rate data described in subparagraph 3.f(4)(c) above, a recipient must notify the affected firm(s). That data must be kept confidential and may not be accessible by or provided by the agency or group of agencies that share cost data under this subparagraph, except by written permission of the audited firm. If prohibited by law, that cost and rate data may not be disclosed under any circumstances. FTA recognizes that many States have “Open Records” laws that may make it difficult to maintain confidential cost or rate data. As a result, before requesting or using a firm’s cost or rate data, not only should a recipient notify the affected firm, but it must also obtain permission to provide that data in response to a valid request under applicable State law. The confidentiality requirements of 49 U.S.C. 5325(b)(2)(D) cannot be waived, even if those confidentiality requirements conflict with State law or regulations.Does the solicitation explain the confidentiality of data protections? |  |  |  |  |  |  |  |
| **2 CFR 200.318(h)** | **Responsible Contractor Information Solicitation Preparation** |
| **4220.1F.VI.8.b.****4220.1F.IV.2.a.(1)** **2 CFR 200.318(h)** | **Responsible Contractor – Award Only to a Responsible Bidder or Offeror**FTA assisted contract awards can be made only to “responsible” contractors possessing the ability, willingness, and integrity to perform successfully under the terms and conditions of the contract. Responsibility is a procurement issue that is determined by the recipient after receiving bids or proposals and before making contract award. FTA expects the prospective contractor to demonstrate affirmatively to the recipient that it qualifies as “responsible” under the standards of 49 U.S.C. Section 5325, and that its proposed subcontractors also qualify as “responsible.”Does the solicitation request information of the prospective contractors that will enable it to determine that the contractor is responsible? |  |  |  |  |  |  |  |
| **4220.1F.VI.8.b.(1)****2 CFR 200.318(h)** | **Responsible Contractor – Integrity and Ethics**Do the solicitation documents request information that will enable the recipient to determine if the contractor has a satisfactory record of integrity and business ethics? |  |  |  |  |  |  |  |
| **4220.1F.VI.8.b.(2)****2 CFR 200.318(h)** | **Responsible Contractor – Debarment and Suspension**Do the solicitation documents request information that will enable the recipient to determine if the contractor is not debarred nor suspended from Federal Programs?Options:* Result of a SAM.gov search that shows the contractor has not exclusions, or
* Collecting a certification, or
* Adding a clause or condition to the covered transaction.
 |  |  |  |  |  |  |  |
| **4220.1F.VI.8.b.(3)****2 CFR 200.318(h)** | **Responsible Contractor – Affirmative Action and DBE**Do the solicitation documents request information that will enable the recipient to determine if the contractor is in compliance with affirmative action and DBE requirements? |  |  |  |  |  |  |  |
| **4220.1F.VI.8.b.(4)****2 CFR 200.318(h)** | **Responsible Contractor – Public Policy**Do the solicitation documents request information that will enable the recipient to determine if the contractor is in compliance with public policies of the Federal Government? |  |  |  |  |  |  |  |
| **4220.1F.VI.8.b.(5)****2 CFR 200.318(h)** | **Responsible Contractor – Administrative and Technical Capacity**Do the solicitation documents request information that will enable the recipient to determine if the contractor has the necessary organization, experience, accounting, and operational controls, and technical skills, or the ability to obtain them? |  |  |  |  |  |  |  |
| **4220.1F.VI.8.b.(6)****2 CFR 200.318(h)** | **Responsible Contractor – Licensing and Taxes**Do the solicitation documents request information that will enable the recipient to determine if the contractor is in compliance with applicable licensing and tax laws and regulations? |  |  |  |  |  |  |  |
| **4220.1F.VI.8.b.(7)****2 CFR 200.318(h)** | **Responsible Contractor – Financing Resources**Do the solicitation documents request information that will enable the recipient to determine if the contractor has, or can obtain, sufficient financial resources to perform the contract? |  |  |  |  |  |  |  |
| **4220.1F.VI.8.b.(8)****2 CFR 200.318(h)** | **Responsible Contractor – Production Capability**Do the solicitation documents request information that will enable the recipient to determine if the contractor has, or can obtain, the necessary production, construction, and technical equipment and facilities? |  |  |  |  |  |  |  |
| **4220.1F.VI.8.b.(9)****2 CFR 200.318(h)** | **Responsible Contractor – Timeliness**Do the solicitation documents request information that will enable the recipient to determine if the contractor can comply with the required delivery or performance schedule, taking into consideration all existing commercial and governmental business commitments? |  |  |  |  |  |  |  |
| **4220.1F.VI.8.b.(10)****2 CFR 200.318(h)** | **Responsible Contractor – Performance Record**Do the solicitation documents request information that will enable the recipient to determine if the contractor has* Adequate resources and key personnel (and subcontractors) with adequate experience and past performance.
* Adequate past experience in carrying out similar work.
* Past deficiencies that were beyond the control of the bidder or the bidder has taken appropriate corrective action.
	+ In the case of deficient contracts, each contract deficiency must be reviewed for responsible determination.
 |  |  |  |  |  |  |  |
|  | **Subrecipient Oversight of Third Party Contracts*** The subrecipient must have oversight of the performance of Third Party contracts.
 |
|  | **Subrecipient Oversight of Third Party Contracts**What is the method of oversight procedures to be implemented, are they incorporated into the Third Party contract or another method as described in the subrecipient’s procurement policies and procedures? |  |  |  |  |  |  |  |
| **4220.1F. IV.2.a.** | **Federal Requirements That May Affect a Recipient’s Acquisitions: Contract Qualifications** –* Recipients are required to be in compliance with all applicable Federal laws and regulations in order to use FTA assistance to support the acquisition of items/services.
* Some laws and regulations affect the third party contractor providing items/services and may determine which entities qualify as a third party contractor.
* Some laws affect the nature of the items/services acquired or the terms under which items/services must be acquired.
 |
|  | **Federal Clauses and Certifications**The clauses and certifications worksheet has been reviewed for applicable clauses and certifications to include in the solicitation. |  |  |  |  |  |  |  |
|  | **END OF CHECKLIST** |