**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*** |  | ***Statewide*** | ***Sole Source*** | ***Small*** | ***Element Required*** | ***Element Documentation Location &/or Explanation, if required*** | ***TDOT Confirmation*** |
| --- | --- | --- | --- | --- | --- | --- | --- |
|  | **Planning** | | | | | | |
|  | **105 Specifications** | | | | | | |
|  | **Specifications** | | | | | | |
| **4220.1F.III.3.a.(1)(a)**  **4220.1F.III.3.a.(1)(c)**  **4220.1F.VI.2.a.(1)**  **\*2 CFR 200.319(d)(1)** | **Specifications – 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)**  **2 CFR 200.319(d)(1)** | **Specifications – Functional Description\***  The recipient is advised to describe technical requirements in terms of “functions to be performed or performance required, …  … The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. …  Functional requirements are included in specifications? |  |  |  |  |  |  |
| **4220.1F.III.3.a.(1)(d)**  **\*2 CFR 200.319(d)(1)** | **Specifications – Preference for Performance Specifications – Maximums, Minimums, Other\***  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.”  … The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. …  Are acceptable performance characteristics included in specifications, such as maximum or minimum acceptable standards? |  |  |  |  |  |  |
| **4220.1F.III.3.a.(1)(e)**  **4220.1F.VI.2.a.(4)**  **\*2 CFR 200.319(d)(1)** | **Specifications – 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? |  |  |  |  |  |  |
| **\*2 CFR 200.319(d)(2)** | **Specifications – Vendor Requirements\***  Solicitations must identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.  Does the solicitation identify all requirements which the vendors must fulfill? |  |  |  |  |  |  |
| **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.b.(3)** | **Specifications – Period of Performance Planning** | | | | | | |
| **4220.1F.IV.2.b.(3)** | **Specifications – 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)** | **Specifications – Period of Performance – Rolling Stock – Time Limits for Options on Contracts**  5 year limit on bus contracts and replacement parts, 7 year limit on railcars and replacement parts. Any non-rolling stock contract over 5 years must have sound business rationale documented. |  |  |  |  |  |  |
| **4220.1F.IV.2.b.(3)** | **Specifications – 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? |  |  |  |  |  |  |
| **4220.1F.IV.2.e.(3)**  **5010.1**  **9030.1**  **9300.1** | **Specifications – Minimum Useful Life Planning** | | | | | | |
| **4220.1F.IV.2.e.(3)**  **5010.1**  **9030.1**  **9300.1** | **Specifications – Minimum Useful 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.  A minimum useful service life must be determined for all equipment purchased with FTA funds with an acquisition value greater than $5,000, and a service life of greater than one year.  Planning records for the procurement document the minimum useful life? |  |  |  |  |  |  |
| **5010.1E IV.4.f.(1)** | **Specifications – Minimum Useful Life – Identify Method to Determine**  The recipient should identify the method used to determine the minimum useful life. |  |  |  |  |  |  |
| **(4220.1F.IV.1.d.)**  **(4220.1F.VI.7.b.)** | **Specifications – Options** | | | | | | |
| **(4220.1F.IV.1.d.)**  **(4220.1F.VI.7.b.)**  **(4220.1F.IV.1.c.)**  **(2 CFR 200.319(e))\*** | **Specifications – Options**  Procurements 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.  Option quantities and periods must be included in the solicitation and in the solicitation evaluation if they are to be exercised. If options are not included in the solicitation and/or are not evaluated, then no options can be exercised later.\* |  |  |  |  |  |  |
| **4220.1F.III.3.a.(1)**  **\*2 CFR 200.319(d)(1)** | **Specifications Description Analysis – Avoid Prohibited Requirements that Restrict Competition**  A clear and accurate description of the technical requirements for the material, product, or service to be procured is required. | | | | | | |
| **4220.1F.III.3.a.(1)(a)**  **\*2 CFR 200.319(d)(1)** | **Specification Description Analysis – Clear and Accurate Description**  All solicitations must incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured.. |  |  |  |  |  |  |
| **4220.1F.III.3.a.(1)(c)**  **\*2 CFR 200.319(d)(1)** | **Specification Description Analysis – Qualitative Nature Description**  The description may include a statement of the qualitative nature of the material, product, or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. |  |  |  |  |  |  |
| **4220.1F.III.3.a.(1)(d)**  **\*2 CFR 200.319(d)(1)** | **Specification Description Analysis – Avoid Detailed Specifications**  Detailed product specifications should be avoided if at all possible. |  |  |  |  |  |  |
| **4220.1F.III.3.a.(1)(d)**  **\*2 CFR 200.319(d)(1)** | **Specification Description Analysis – Functional Nature Specifications**  … advises the recipient to describe technical requirements in terms of “functions to be performed or performance required, including the range of acceptable characteristics or minimum acceptable standards” |  |  |  |  |  |  |
| **(4220.1F.IV.1.d.)**  **(4220.1F.VI.7.b.)** | **Specifications – Evaluation of Offers** | | | | | | |
| **(4220.1F.IV.1.f)**  **\*2 CFR 200.319(d)(2)** | **Specifications – Evaluation of Offers\***  … In general, specifications should clearly describe the property or services to be procured and state how the bids or proposals will be evaluated. … |  |  |  |  |  |  |
| **(4220.1F.IV.1.f)**  **\*2 CFR 200.319(d)(2)** | **Specifications – Evaluation of Vendors\***  Solicitations must identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals. |  |  |  |  |  |  |
| **(4220.1F.IV.1.d.)**  **(4220.1F.VI.7.b.)**  **(4220.1F.IV.1.c.)**  **\*2 CFR 200.319(d)(2)** | **Specifications – Evaluation of Options\***  Procurements 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.  Option quantities and periods must be included in the solicitation and in the solicitation evaluation if they are to be exercised. If options are not included in the solicitation and/or are not evaluated, then no options can be exercised later. |  |  |  |  |  |  |
| **4220.1F.IV.1.a.**  **4220.1F.IV.2.b.(1)**  **4220.1F.IV.2.b.(2)**  **4220.1F.IV.2.b.(4)** | **Eligibility** | | | | | | |
| **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? |  |  |  |  |  |  |
|  | **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.IV.2.b.(5)(b)** | **Payment Provisions – Advance Payments**  Advance payments are payments made to a contractor before the contractor incurs contract costs. Advance payments are prohibited unless they qualify for an exception and have TDOT written pre-approval as follows. There are two possible exceptions that Advance Payments may be approved for reimbursement. The first case requires the grantee to provide a sound business reason and has received TDOT’s advanced written concurrence, and after TDOT has secured the written concurrence of the FTA. Adequate security for the advance payment is an essential pre-condition to concurrence for reimbursement for local funds. The second case are for Customary Advance Payments. These are transactions that normally in the course of business require advance payments such as for public utility connections and services, rent, tuition, insurance premiums, subscriptions to publications, software licenses, construction mobilization costs, transportation, hotel reservations, and conference and convention registrations. These second case transactions must be preapproved only when the payments required exceed $100,000. |  |  |  |  |  |  |
| **4220.1F.IV.2.b.(5)(c)** | **Payment Provisions – Progress Payments**  Progress payments are payments for contract work that has not been completed. The grantee may use FTA assistance to support progress payments provided the grantee obtains adequate security for those payments and has sufficient written documentation to substantiate the work for which payment is requested. |  |  |  |  |  |  |
| **4220.1F.IV.2.b.(5)(c)3** | **Payment Provisions – Progress Payments – Percentage of Completion Method**  The percentage of completion method of progress payment is required for construction projects. Other than construction projects, the percentage of completion method for progress payments may not be used. |  |  |  |  |  |  |
|  | **110 Necessity Determination** | | | | | | |
| **4220.1F.III.3.a.(2)**  **4220.1F.IV. 1.b.**  **\*2 CFR 200.318(d)** | **Necessity Determination**   * The Uniform Guidance requires 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. | | | | | | |
| **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 quantity of items/services requested in the solicitation are a current need? |  |  |  |  |  |  |
| **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.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\***  The recipient may contract only for its current and reasonably expected public transportation needs, and may not add quantities or options to third party contracts solely to permit assignment to another party at a later date.  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? |  |  |  |  |  |  |
| **\*2 CFR 200.318(d)** | **Necessity Determination – Considerations of Economical Purchase\***  Does the planning analysis for the solicitation show that consideration was given to consolidating or breaking out procurements to obtain a more economical purchase? |  |  |  |  |  |  |
| **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.c.(1)** | **Necessity Determination – Joint Procurements**  It may be economically advantageous for a recipient to enter into a joint procurement with others that have similar needs. The recipient responsible for undertaking the joint procurement may, upon contract award, assign to the other participants responsibilities for administering those parts of the contract affecting their property or services. Participation in a joint procurement, however, does not relieve any participating recipient from the requirements and responsibilities it would have if it were procuring the property or services itself, and does not relinquish responsibility for the actions of other participants merely because the primary administrative responsibility for a particular action resides in an entity other than in itself.  Were Joint Procurement opportunities considered? |  |  |  |  |  |  |
| **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? |  |  |  |  |  |  |
|  | **115 Independent Estimate** | | | | | | |
| **4220.1F.VI.6.**  **2 CFR §200.324(a)** | **Pre-Solicitation Independent Estimate**   * The recipient must make independent estimates before receiving bids/proposals | | | | | | |
| **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? |  |  |  |  |  |  |
| **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? |  |  |  |  |  |  |
| **4220.1F.VI.6.**  **\*2 CFR §200.324(a)**  **FTA 3rd Party Proc FAQs** | **Pre-Solicitation Independent Estimate – Cost Basis Estimate for A&E and Non-Competitive\***  In cases where there is no price competition, such as in A&E or sole source procurements, responders are required to submit detailed cost proposals. As a result, recipients must evaluate the cost elements and profit outlined in these proposals. This necessitates the recipient to have previously prepared a detailed ICE based on costs, encompassing labor categories, hours, labor rates, travel costs, equipment expenses, overhead, other relevant cost elements, with profit separately considered, as expected in the responder’s proposal. |  |  |  |  |  |  |
|  | **120 Procurement Method Selection – Record Keeping Requirements – Part 1** | | | | | | |
| **\*2 CFR 200.320** | **Recordkeeping: Procurement Method Selection**   * Federal micro-purchase threshold is currently, $10,000, and the Federal Simplified Acquisition Threshold is currently, $250,000. The lessor of the Federal level or the grantee’s procurement policy micro-purchase and simplified acquisition threshold should be considered. | | | | | | |
| **\*2 CFR 200.320(a),(b)&(c)**  **4220.1F.III.3.a.(6)**  **\*2 CFR 200.318(i)**  **State Contract D.20. Clause** | **Recordkeeping: Procurement Method Selection**  Informal Procurement Methods – When the value of the procurement for property or services under a Federal award does not exceed the simplified acquisition threshold (SAT), as defined in § 200.1, or a lower threshold established by a non-Federal entity, formal procurement methods are not required. The non-Federal entity may use informal procurement methods to expedite the completion of its transactions and minimize the associated administrative burden and cost.  Formal Procurement Methods – When the value of the procurement for property or services under a Federal financial assistance award exceeds the SAT, or a lower threshold established by a non-Federal entity, formal procurement methods are required. Formal procurement methods require public advertising unless a non-competitive procurement can be used.  Noncompetitive Procurement – There are specific circumstances in which noncompetitive procurement can be used: micro-purchases, property or services only available from a single source, public exigency or emergency, with written authorization from FTA or TDOT, or after solicitation of sources and competition is determined to be inadequate. |  |  |  |  |  |  |
| **\*2 CFR 200.320(a)(1)** | **Recordkeeping: Procurement Method Selection – Informal – Micro Purchase**  The acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold.  (Federal micro-purchase threshold is currently, $10,000. The lessor of the Federal level or the grantee’s procurement policy micro-purchase threshold should be considered.) |  |  |  | Not Required |  |  |
| **\*2 CFR 200.320(a)(2)** | **Recordkeeping: Procurement Method Selection – Informal – Small Purchases**  The acquisition of property or services, the aggregate dollar amount of which is higher than the micro-purchase threshold but does not exceed the simplified acquisition threshold. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources as determined appropriate by the non-Federal entity. The recipient may choose to advertise solicitations that are less than their policy simplified acquisition threshold.  (Federal micro-purchase threshold is currently, $10,000, and the Federal Simplified Acquisition Threshold is currently, $250,000. The lessor of the Federal level or the grantee’s procurement policy micro-purchase and simplified acquisition threshold should be considered.) |  |  |  |  |  |  |
| **\*2 CFR 200.320(b)(1)** | **Recordkeeping: Procurement Method Selection – Formal – Sealed Bids**  A procurement method in which bids are publicly solicited and a firm fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. All solicitations greater in amount than the recipient’s procurement policy simplified acquisition threshold must be advertised.  (The Federal Simplified Acquisition Threshold is currently, $250,000. The lessor of the Federal level or the grantee’s procurement policy simplified acquisition threshold should be considered.) |  |  |  | Bids |  |  |
| **\*2 CFR 200.320(b)(2)** | **Recordkeeping: Procurement Method Selection – Formal – Proposals**  A procurement method in which either a fixed price or cost-reimbursement type contract is awarded. Proposals are generally used when conditions are not appropriate for the use of sealed bids. All solicitations greater in amount than the recipient’s procurement policy simplified acquisition threshold must be advertised.  (The Federal Simplified Acquisition Threshold is currently, $250,000. The lessor of the Federal level or the grantee’s procurement policy simplified acquisition threshold should be considered.) |  |  |  | Proposals |  |  |
| **\*2 CFR 200.320(c)** | **Recordkeeping: Procurement Method Selection – Noncompetitive (Sole Source)**  Noncompetitive procurement can only be awarded if one or more of the following circumstances apply: micro-purchases, property or services only available from a single source, public exigency or emergency, with written authorization from FTA or TDOT, or after solicitation of sources and competition is determined to be inadequate. Non-competitive solicitations are not advertised. |  |  |  | Sole Source |  |  |
| **\*2 CFR 200.318(e)** | **Recordkeeping: Procurement Method Selection – State Intergovernmental Agreements (Statewide Contract)**  To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the Federal Government, the non-Federal entity is encouraged to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services. Competition requirements will be met with documented procurement actions using strategic sourcing, shared services, and other similar procurement arrangements. The recipient must maintain in the procurement file documentation of the procurement actions taken to complete the agreement by the state or local intergovernmental agency, such as advertising and inclusion of federal clauses and certifications. The documentation must be obtained prior to completing the transaction with the vendor. Any missing federal clauses or certifications can be remedied by attaching the missing items to the purchase agreement, purchase order or contract, with the vendor. |  |  |  | State Purchasing  Agreement  (Statewide Contract) |  |  |
| **\*2 CFR 200.318(i)**  **4220.1F.III.3.d.(1)(a)** | **Recordkeeping: 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.III.3.c.(1)**  **\*2 CFR 200.318(i)**  **\*2 CFR 200.318(j)**  **4220.1F VI.2.c.(2)** | **Recordkeeping: 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 * Alternative when Firm Fixed Price can’t be used due to uncertainties of estimation for fixed cost * Cost Reimbursement Plus Fixed Fee * Variation of Cost Reimbursement * Cost plus a percentage of cost type contract is prohibited. The cost is variable not fixed. * Time and Materials\* * Restricted use, only after determined other types are not suitable * Contract represents actual cost of materials, direct labor charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit. * The contract must specify the contractor may not exceed ceiling price * Cost Plus Percentage of Cost * This contract type is prohibited |  |  |  |  |  |  |
| **4220.1F.VI.2.c.(2)(a)**  **\*2 CFR 200.324(d)** | **Recordkeeping: Contract Type – 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. |  |  |  | Check that Cost + % Cost Type Contract not used |  |  |
| **4220.1F.VI.2.c.** | **Recordkeeping: Contract Type – Stated in Specifications**  The recipient’s specifications should state the type of contract that will be awarded. |  |  |  |  |  |  |
| **4220.1F.III.3.d.(b)**  **\*2 CFR 200.318(i)** | **Recordkeeping: Contract Type – Rationale for the Selection of the Contract Type\***  Did the recipient state the reasons for selecting the contract type for the solicitation? |  |  |  |  |  |  |
|  | **Recordkeeping: Contract Type – Award Documentation**  The recipient prepared and submitted a draft purchase order or contract with the required clauses attached or included with the procurement documentation for review? |  |  |  |  |  |  |
| **4220.1F.III.3.d.(b)**  **\*2 CFR 200.318(i)** | **Recordkeeping: Contractor Rejection or Selection\***  Does the subrecipient have a plan for recording contractor rejections and selections?  (The recipient’s proposed vendor evaluation/selection document should be attached.) |  |  |  |  |  |  |
| **4220.1F.VI.3.c.(1)(b)**  **4220.1F.VI.3.d.(1)(b)** | **Recordkeeping: Adequate Responsible Offerors**  Two or more responsible offerors 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 that an adequate number of responsible bidders may reply? |  |  |  |  |  |  |
| **4220.1F.III.3.d.(b)**  **\*2 CFR 200.318(i)** | **Recordkeeping: Basis for Contract Price\***  Does the subrecipient have a plan for recording the basis for contract price? |  |  |  |  |  |  |
| **4220.1F.VI.7.**  **\*2 CFR 200.318(k)** | **Recordkeeping: Evaluation Planning**   * The non-Federal entity alone must be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims.\* * 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. | | | | | | |
|  | **Recordkeeping: Evaluation Planning – Evaluation Scorecard**  The recipient has ready an evaluation scorecard, template or worksheet to be used to score the procurement and determine the vendor to receive the award, and it is included in procurement materials? |  |  |  |  |  |  |
| **4220.1F.VI.2.b.**  **4220.1F.VI.7.**  **\*2 CFR 200.319(d)(2)** | **Recordkeeping: Evaluation Planning – Factors Disclosed in Solicitation\***  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.** | **Recordkeeping: Evaluation Planning – Options Disclosed in Solicitation**  If options will be considered, do the solicitation documents explain that the options will be included in the evaluation? |  |  |  |  |  |  |
| **4220.1F.VI.2.f.** | **Recordkeeping: 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.3.c.(2)(f)**  **\*2 CFR 200.320(b)(1)(ii)(E)** | **Recordkeeping: 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? |  |  |  |  |  |  |
|  | **310 Publicity Plan (Part 1)** | | | | | | |
| **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**  Solicitations that exceed the recipient’s procurement policy simplified acquisition threshold are required to be advertised, unless the procurement is a sole source procurement.  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? |  |  |  |  |  |  |
| **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. |  |  |  |  |  |  |
|  | **350 Responsible Determination – Part 1** | | | | | | |
| **\*2 CFR 200.318(h)** | **Responsible Contractor Information Solicitation Preparation\***  The recipient should plan which responsibility items are applicable to the procurement and how information to make the determination will be collected. | | | | | | |
| **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.(2)**  **\*2 CFR 200.318(h)**  **2 CFR 200.214**  **2 CFR 180.300** | **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.(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.(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/Technical 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. |  |  |  |  |  |  |
|  | **Solicitation** | | | | | | |
| **4220.1F.VI.3.b.**  **\*2 CFR 200.320(a)(2)** | **200b Small Purchase – Part 1** | | | | | | |
| **4220.1F.VI.3.b.**  **\*2 CFR 200.320(a)(2)** | **Small Purchase Procurement**   * Greater than Micro-Purchase threshold, less than Simplified Acquisition Threshold * Adequate number of qualified, responsible sources (not less than two) | | | | | | |
| **4220.1F.VI.3.b.**  **\*2 CFR 200.320(a)(2)** | **Small Purchase Procurement\***  The acquisition of property or services, the aggregate dollar amount of which is higher than the micro-purchase threshold but does not exceed the simplified acquisition threshold. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources as determined appropriate by the non-Federal entity.  How many sources of price or rate quotations is the recipient planning to request (at least two, but not less than the number required by the recipient’s procurement policy)? |  |  |  |  |  |  |
| **4220.1F.V.4.**  **\*2 CFR 200.318(e)** | **200j State or Local Government Purchasing Agreements (Statewide Contracts) – Part 2** | | | | | | |
| **4220.1F.V.4.**  **\*2 CFR 200.318(e)** | **State or Local Government Purchasing Agreements (Statewide Contracts)**   * Must confirm that the agreement was competitively procured * Must confirm that agreement meets FTA requirements (Clauses and Certifications) * Compliance can be achieved through an agreement to attach missing elements to purchasing agreement | | | | | | |
| **4220.1F.V.4.**  **\*2 CFR 200.318(e)** | **State or Local Government Purchasing Agreements (Statewide Contracts)\***  When obtaining property or services in this manner, the recipient must ensure all Federal requirements, required clauses, and certifications (including Buy America) are properly followed and included, whether in the master intergovernmental contract or in the recipient's purchase document. …  The State or Local purchasing schedule has been reviewed for FTA compliance? |  |  |  |  |  |  |
| **4220.1F.V.4.**  **\*2 CFR 200.318(e)** | **State or Local Government Purchasing Agreements (Statewide Contracts)\***  … One way of achieving compliance with FTA requirements is for all parties to agree to append the required Federal clauses in the purchase order or other document that effects the recipient’s procurement. When buying from these schedules, the recipient should obtain Buy America certification before entering into the purchase order. If the product to be purchased is Buy America compliant, there is no problem. If the product is not Buy America compliant, the recipient will need to obtain a waiver from FTA before proceeding.  A missing clause and certification addendum has been prepared to attach to the purchasing agreement to complete FTA compliance? |  |  |  |  |  |  |
| **4220.1F.VI.3.c.**  **\*2 CFR 200.320(b)(1)** | **200c Invitation to Bid – Part 1** | | | | | | |
| **4220.1F.VI.3.c.**  **\*2 CFR 200.320(b)(1)** | **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)**  **\*2 CFR 200.320(b)(1)(ii)(B)**  **\*2 CFR 200.320(b)(1)(i)(A)** | **Sealed Bid – Precise Specifications to Enable Proper Response\***  … The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond …  A complete, adequate, and realistic specification or purchase description is available …  The sealed bid solicitation has a complete, adequate, precise, and realistic specification description that will enable a prospective bidder to submit a proper bid? |  |  |  |  |  |  |
| **4220.1F.VI.3.c.(1)(b)**  **\*2 CFR 200.320(b)(1)(ii)(A)**  **\*2 CFR 200.320(b)(1)(i)(B)** | **Sealed Bid – Adequate Sources\***  Bids must be solicited from an adequate number of qualified sources …  Two or more responsible bidders are willing and able to compete effectively for the business.  There are two or more responsible bidders willing and able to effectively compete for the business? |  |  |  |  |  |  |
| **4220.1F.VI.3.c.(2)(d)**  **\*2 CFR 200.320(b)(1)(ii)(A)** | **Sealed Bid – Sufficient Time\***  … providing them sufficient response time prior to the date set for opening the bids …  The solicitation allows for sufficient time to prepare bids before the date of bid opening? |  |  |  |  |  |  |
| **4220.1F.VI.3.c.(2)(a)**  **\*2 CFR 200.320(b)(1)(ii)(A)** | **Sealed Bid – Publicity\***  The invitation to bid will be publicly advertised? |  |  |  |  |  |  |
| **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)  (Two-Step Procurements using the Bid method may have discussions)? |  |  |  |  |  |  |
| **4220.1F.VI.3.c.(2)(e)**  **\*2 CFR 200.320(b)(1)(ii)(C)** | **Sealed Bid – Public Opening\***  … All bids will be opened at the time and place prescribed in the invitation for bids, and for local and tribal governments, the bids must be opened publicly …  The solicitation gives the time and place prescribed for the public opening of bids? |  |  |  |  |  |  |
| **4220.1F.VI.3.c.(1)(d)**  **\*2 CFR 200.320(b)(1)(ii)(D)**  **\*2 CFR 200.320(b)(1)(i)(C)** | **Sealed Bid – Award to Lowest Price**  … to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of …  … and the selection of the successful bidder can be made principally on the basis of price.  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.  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)(c)**  **\*2 CFR 200.320(b)(1)(ii)(D)**  **\*2 CFR 200.320(b)(1)(i)(C)** | **Sealed Bid – Fixed Price Contract**  … A firm fixed price contract award will be made in writing …  The procurement lends itself to a firm fixed price contract …  The solicitation explains that a fixed price type contract will be awarded? |  |  |  |  |  |  |
| **4220.1F.VI.3.c.(2)(f)**  **\*2 CFR 200.320(b)(1)(ii)(E)** | **Sealed Bid – Rejection of Bids**  Any or all bids may be rejected if there is a sound documented reason.  Does the solicitation disclose that any and all bids may be rejected if there are sound, documented business reasons? |  |  |  |  |  |  |
| **4220.1F.VI.3.d.** | **200d Competitive Proposal (Request for Proposal) – Part 1** | | | | | | |
| **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)**  **\*2 CFR 200.320(b)(2)** | **Competitive Proposal – Types of 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.  … Proposals are generally used when conditions are not appropriate for the use of sealed bids. …  The proposal solicitation has a performance or functional specifications, or if technical specifications are described there are other circumstances such as a need for discussions with proposers about their approach to the project or there is a need to base the award on factors other than price? |  |  |  |  |  |  |
| **4220.1F.VI.3.d.(1)(b)**  **\*2 CFR §200.320(b)(2)(i)** | **Competitive Proposal – Adequate Sources\***  … Proposals must be solicited from an adequate number of qualified offerors. …  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 proposers? |  |  |  |  |  |  |
| **4220.1F.VI.3.d.(2)(a)**  **\*2 CFR 200.320(b)(2)(i)** | **Competitive Proposal – Publicity\***  Requests for proposals must be publicized …  The request for proposal will be publicly advertised? |  |  |  |  |  |  |
| **4220.1F.VI.3.d.(1)(d)**  **\*2 CFR §200.320(b)(2)(i)** | **Competitive Proposal – Maximum Considerations\***  … Any response to publicized requests for proposals must be considered to the maximum extent practical …  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)(b)**  **\*2 CFR §200.320(b)(2)(i)** | **Competitive Proposal – Evaluation Factors Identified in Solicitation\***  … and identify all evaluation factors and their relative importance. …  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**  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 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)(b)**  **\*2 CFR §200.320(b)(2)(ii)** | **Competitive Proposal – Written Evaluation\***  … The non-Federal entity must have a written method for conducting technical evaluations of the proposals received and making selections; …  A specific method is established and used to conduct technical evaluations of the proposals received and to determine the most qualified offeror.  Has a written evaluation method been established and is there a proposal evaluation form ready for documenting the evaluation of proposals?  (A copy of the proposal evaluation sheet to be used should be acquired.) |  |  |  |  |  |  |
| **4220.1F.VI.3.d.(2)(b)**  **\*2 CFR §200.320(b)(2)(ii)** | **Competitive Proposal – Responsible Determination Evaluation Factor\***  … Contracts must be awarded to the responsible offeror…  The RFP explains that the successful offeror must be responsible and possess the technical merit to complete the project? |  |  |  |  |  |  |
| **4220.1F.VI.3.d.(2)(f)**  **\*2 CFR §200.320(b)(2)(iii)** | **Competitive Proposal – Evaluation Factors – Best Value\***  … whose proposal is advantageous to the non-Federal entity, with price and other factors considered, …  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 proposers 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) – Part 1** | | | | | | |
| **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 – Step One: Review of Technical Approach & Qualifications**  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 and are the evaluation factors for Step One listed in the solicitation? |  |  |  |  |  |  |
| **4220.1F.VI.3.e.(1)** | **Two-Step – Competitive Range**  Does the solicitation explain that during the first step, bidders may be narrowed to those that have a satisfactory approach and have satisfactory qualifications? |  |  |  |  |  |  |
| **Best Practices Procurement & Lessons Learned Manual, Pg 94** | **Two-Step – Discussions**  Discussions may be necessary due to that available specifications are not definite or complete or may be too restrictive without technical evaluation and any necessary discussion to ensure there is a mutual understanding of the requirements between each vendor and the recipient.  Does the solicitation explain that discussions will be held with offerors and the process that will be followed? |  |  |  |  |  |  |
| **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. The recipient should attempt to solicit at least three of these for consideration in step two.  Does the solicitation explain that all qualified bidders from step one will be considered for step two and that the recipient will attempt to solicit bids from at least three qualified prospective offerors for step two? |  |  |  |  |  |  |
| **4220.1F.VI.3.e.(2)** | **Two-Step – Bid Method**  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 – Proposal Method**  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.**  **\*2 CFR 200.320(b)(2)**  **\*2 CFR 200.320(b)(2)(iv)** | **200e Architectural & Engineering (A&E) Services – Part 1** | | | | | | |
| **4220.1F.VI.3.f.**  **4220.1F.IV.2.h.**  **\*2 CFR 200.320(b)(2)**  **\*2 CFR 200.320(b)(2)(iv)** | **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.d.(1)(a)**  **\*2 CFR 200.320(b)(2)** | **A&E – Type of Specifications\***  The A&E 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.  … Proposals are generally used when conditions are not appropriate for the use of sealed bids. …  The proposal A&E solicitation has a performance or functional specifications, or if technical specifications are described there are other circumstances such as a need for discussions with proposers about their approach to the project or there is a need to base the award on factors other than price? |  |  |  |  |  |  |
| **4220.1F.VI.3.d.(2)(a)**  **\*2 CFR 200.320(b)(2)(i)** | **A&E – Publicity\***  Requests for A&E proposals must be publicized …  The request for proposal will be publicly advertised? |  |  |  |  |  |  |
| **4220.1F.VI.3.d.(2)(b)**  **\*2 CFR 200.320(b)(2)(i)** | **A&E – Evaluation Factors Identified in Solicitation\***  … and identify all evaluation factors and their relative importance. …  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.f.(2)(f)(3)(b)**  **2 CFR 200.320(b)(2)(iv)** | **A&E – Evaluation Factors – Price Not Considered as a Factor**  Price is excluded as an evaluation factor.  Price is not considered as a vender selection evaluation factor? |  |  |  |  |  |  |
| **4220.1F.VI.3.d.(1)(b)**  **\*2 CFR §200.320(b)(2)(i)** | **A&E – Adequate Sources\***  … Proposals must be solicited from an adequate number of qualified offerors. …  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 A&E proposers? |  |  |  |  |  |  |
| **4220.1F.VI.3.d.(1)(d)**  **\*2 CFR §200.320(b)(2)(i)** | **A&E – Maximum Considerations\***  … Any response to publicized requests for proposals must be considered to the maximum extent practical …  Discussions with individual A&E are expected to be necessary after they have submitted their proposals and before selection of the most qualified vendor (Note that discussions are not required prior to selection of the most qualified vendor)? |  |  |  |  |  |  |
| **4220.1F.VI.3.d.(2)(b)**  **\*2 CFR §200.320(b)(2)(ii)** | **A&E – Written Evaluation\***  … The non-Federal entity must have a written method for conducting technical evaluations of the proposals received and making selections; …  A specific method is established and used to conduct technical evaluations of the proposals received and to determine the most qualified offeror.  Has a written evaluation method been established and is there a proposal evaluation form ready for documenting the evaluation of proposals?  (A copy of the proposal evaluation sheet to be used should be acquired.) |  |  |  |  |  |  |
| **4220.1F.VI.3.d.(2)(b)**  **\*2 CFR §200.320(b)(2)(ii)** | **A&E – Responsible Determination Evaluation Factor\***  … Contracts must be awarded to the responsible offeror…  The A&E solicitation explains that the successful offeror must be responsible and possess the technical merit to complete the project? |  |  |  |  |  |  |
| **4220.1F.VI.3.f.(1)**  **4220.1F.VI.3.f.(3)(a)**  **4220.1F.VI.3.f.(3)(b)**  **\*2 CFR 200.320(b)(2)(iv)** | **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.  … an offeror’s qualifications are evaluated to determine contract award. Price is excluded as an evaluation factor.  The non-Federal entity may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby offeror's qualifications are evaluated and the most qualified offeror is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms that are a potential source to perform the proposed effort.  Does the solicitation describe A&E services to be procured and that the award will be made on a qualifications basis and identify what factors, excluding price, will form the basis for the award? |  |  |  |  |  |  |
| **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, alteration, or repair to real property? |  |  |  |  |  |  |
| **4220.1F.VI.3.f.(3)(c)**  **4220.1F.VI.3.f.(3)(d)**  **4220.1F.VI.3.f.(3)(e)** | **A&E – Fair & Reasonable Price Negotiations**  Negotiations are first conducted with only the most qualified offeror. 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.  Does the solicitation inform potential proposers that fair and reasonable price negotiations will first be conducted only with the most qualified offeror, and only after failing to come to an agreement may price negotiations be conducted with successive offerors in descending order? |  |  |  |  |  |  |
| **4220.1F.VI.3.f.(4)(a)**  **49 U.S.C. Section 5325(b)** | **A&E – Performance of Audit (FAR Part 32 Reimbursement Review)**  All A&E awarded contracts and subcontracts will be performed and audited in compliance with FAR part 31 cost principles.  The recipient is prepared to examine (audit) vendor billings to confirm the project was performed in compliance with FAR part 31 cost principles of reasonableness, allocability, allowability, etc.? |  |  |  |  |  |  |
| **4220.1F.VI.3.f.(4)(a)**  **49 U.S.C. Section 5325(b)** | **A&E – Performance of Audit (Explained in Solicitation)**  All A&E awarded contracts and subcontracts will be performed and audited in compliance with FAR part 31 cost principles.  The Solicitation document explains to potential A&E vendors that documentation is required when submitting requests for reimbursement that demonstrate that the contract is performed in compliance with FAR part 31? |  |  |  |  |  |  |
| **4220.1F.VI.3.f.(4)(b)**  **49 U.S.C. Section 5325(b)** | **A&E – Indirect Cost Rates**  The recipient and the third party contractor, its subcontractors and subrecipients, if any, must accept FAR indirect cost rates for the one-year applicable accounting periods established by a cognizant Federal or State government agency …  The Solicitation document explains that the contractor may include indirect costs in their price proposal negotiation round and that the cognizant agency approval letter for the indirect cost rate must be submitted with the proposal and annually afterwards until the contract is completed if selected? |  |  |  |  |  |  |
| **4220.1F.VI.3.i.(1)(b)1**  **2 CFR §200.320(c)** | **220r Sole Source Procurement – Part 2** | | | | | | |
| **4220.1F.VI.3.i.(1)(b)1**  **2 CFR §200.320(c)** | **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. | | | | | | |
| **4220.1F.VI.3.i.(1)(b)1**  **2 CFR §200.320(c)** | **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 basis 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**  **2 CFR §200.320(c)(2)**  **2 CFR §200.320(c)(3)** | **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**  **\*2 CFR §200.320(c)(2)** | **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.) |  |  |  |  |  |  |
| **4220.1F.VI.3.i.(1)(c)**  **\*2 CFR §200.320(c)(3)** | **Sole Source – Public Exigency or Emergency\***  The recipient may also limit the solicitation when the public exigency or emergency will not permit a delay resulting from competitive solicitation for the property or services.  … when a recipient has such an unusual and urgent need for the property or services that the recipient would be seriously injured unless it were permitted to limit the solicitation. The recipient may also limit the solicitation when the public exigency or emergency will not permit a delay resulting from competitive solicitation for  the property or services.  Is the sole source procurement for a Public Exigency or Emergency? |  |  |  |  |  |  |
| **4220.1F.VI.3.i.(1)(e)**  **\*2 CFR §200.320(c)(4)** | **Sole Source – Federal Awarding Agency Authorization \***  The Federal awarding agency or pass-through entity expressly authorizes a noncompetitive procurement in response to a written request from the non-Federal entity.  The Uniform Guidance provides Federal agencies authority to permit a recipient to use noncompetitive proposals. Examples of determinations made by the FTA are, 1) When entering into an agreement with a team, consortium, joint venture, or partnership, FTA has approved the participation of a particular firm or combination of firms, and expects the recipient to use competition, as feasible for other participants in the project, 2) or when entering a noncompetitive agreement as authorized by FAR Part 6.3.  Does the recipient have written authorization from the FTA for the sole source procurement? |  |  |  |  |  |  |
| **4220.1F.VI.3.i.(1)(b)2**  **\*2 CFR §200.320(c)(5)** | **Sole Source – Singular Availability \***  After solicitation of a number of sources, competition is determined inadequate.  Upon receiving a single bid or single proposal in response to a solicitation, the recipient should determine if competition was adequate. This should include a review of the specifications for undue restrictiveness and might include a survey of potential sources that chose not to submit a bid or proposal.  Adequate Competition: FTA acknowledges competition to be adequate when the reasons for few responses were caused by conditions beyond the recipient’s control. Many unrelated factors beyond the recipient’s control might cause potential sources not to submit a bid or proposal. If the competition can be determined  Inadequate Competition: FTA acknowledges competition to be inadequate when, caused by conditions within the recipient’s control. For example, if the specifications used were within the recipient’s control and those specifications were unduly restrictive, competition will be inadequate.  Has the recipient reviewed specifications to see if they will unduly restrict competition? Has the recipient a plan to solicit as many potential sources as practical?  If the recipient determined the procurement has only singular availability, is competition determined to be adequate or inadequate? If determined to be inadequate, does the recipient have an applicable sole source justification? |  |  |  |  |  |  |
| **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? |  |  |  |  |  |  |
| **4220.1F.IV.2.e.** | **355 Rolling Stock – Part 1** | | | | | | |
| **4220.1F.IV.2.e.** | **Rolling Stock** | | | | | | |
| **(49 CFR §37.77)** | **Certification of Equivalent Service**  Required for   * Demand responsive systems * Purchasing or leasing a non-accessible revenue service vehicle * Vehicle to be procured is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs * NOT for service vehicles   Vehicles to be purchased or leased and used in demand response systems must be readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, unless the demand response system provides a level of service to individuals with disabilities, including individuals who use wheelchairs, equivalent to the level of service provided to individuals without disabilities.  A demand response system, when viewed in its entirety, shall be deemed to provide equivalent service if the service available to individuals with disabilities, including individuals who use wheelchairs, is provided in the most integrated setting appropriate to the needs of the individual and is equivalent to the service provided other individuals with respect to the following service characteristics:   1. Response time; 2. Fares; 3. Geographic area of service; 4. Hours and days of service; 5. Restrictions or priorities based on trip purpose; 6. Availability of information and reservations capability; and 7. Any constraints on capacity or service availability.   A demand response system who needs to procure the purchase or lease of a revenue vehicle that is not accessible can provide analysis and documentation to certify that equivalent service is being provided to individuals with disabilities, including individuals who use wheelchairs, by using the TDOT Certification of Equivalent Service form and providing the analysis documentation support.  Does the recipient provide demand responsive services?  Are non-accessible vehicles that will be used to provide transit services included in the procurement purchases or leases?  If yes to both questions, the grantee must prepare the documentation and performed the analysis to demonstrate equivalent service for both non-disabled individuals and disabled individuals, including individuals who use wheelchairs, and completed the Certification of Equivalent Service Form within a year of the upcoming purchase or lease? (*Attach, if required, Certification of Equivalent Service Form with documentation and analysis.*) |  |  |  |  |  |  |
| **4220.1F.IV.2.e.(7)**  **49 USC §5318**  **49 CFR Part 665** | **Bus Testing Report**  The recipient has requested the full Bus Testing Report and any partial testing reports in the solicitation. Used for the required recipient certification |  |  |  |  |  |  |
| **4220.1F.IV.2.e.(2)**  **49 CFR §26.49** | **Pre-Award Transit Vehicle Manufacturer (TVM) FMVSS Self Certification**   * Before entering contract, the recipient must retrieve a copy of the transit Vehicle Manufacturer (TVM) self-certification that it has complied with the FTA’s DBE and safety requirements. Used for the required recipient certification.   Did the recipient request a copy of the TVM self-certification for the pre-award audit in the solicitation? |  |  |  |  |  |  |
| **4220.1F.IV.2.e.(6)**  **49 USC §5323(m)**  **49 CFR Part 663** | **Pre-Award Buy America Documentation from Manufacturer**   * Before entering contract, documentation that lists Component and subcomponent parts identified by manufacturer of parts of rolling stock to be purchased, their country of origin and costs, and the location of the final assembly point with a description of the activities that will take place at the final assembly point and the cost of final assembly. Used for the required recipient certification.   Did the recipient request a copy of the pre-award Buy America component and sub-component report, with location of final assembly and cost of final assembly in the solicitation? |  |  |  |  |  |  |
| **4220.1F.IV.2.e.(2)**  **49 CFR §26.49** | **Post-Delivery Transit Vehicle Manufacturer (TVM) FMVSS Self Certification**   * Upon delivery of vehicle but before the earlier of transfer of title or putting the vehicle into revenue service, the recipient must retrieve a copy of the transit Vehicle Manufacturer (TVM) self certification that it has complied with the FTA’s DBE and safety requirements. Used for the required recipient certification.   Did the recipient request a copy of the TVM self-certification for the post-delivery audit in the solicitation? |  |  |  |  |  |  |
| **4220.1F.IV.2.e.(6)**  **49 USC §5323(m)**  **49 CFR Part 663** | **Post-Delivery Buy America Documentation from Manufacturer**   * Before transfer of title, documentation that lists Component and subcomponent parts identified by manufacturer of parts of rolling stock to be purchased, their country of origin and costs, and the location of the final assembly point with a description of the activities that will take place at the final assembly point and the cost of final assembly. Used for the required recipient certification.   Did the recipient request a copy of the post-delivery Buy America component and sub-component report, with location of final assembly and cost of final assembly in the solicitation? |  |  |  |  |  |  |
| **4220.1F.IV.2.e.(8)**  **49 U.S.C. Section 5325(i)** | **In-State Dealers**  The recipient may not limit its third party bus procurements to its in-State dealers.  Does the solicitation avoid limiting the procurement to in-State dealers? |  |  |  |  |  |  |
| **4220.1F.IV.2.i.** | **360 Construction – Part 1** | | | | | | |
| **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 solicitation  Any bonding request in the solicitation that is above the required doesn’t appear to restrict competition? |  |  |  |  |  |  |
| **4220.1F.IV.2.i.(3)**  **\*2 CFR §200.318(g)** | **Value Engineering\***  Use value engineering clauses in contracts for construction projects of **sufficient size** to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost. |  |  |  |  |  |  |
| **4220.1F.IV.2.i.(5)**  **2 CFR 200 Appendix II (D)** | **Construction – Prevailing Wages**  Davis-Bacon wage determinations requirement explained in solicitation and clause included in contract documents. |  |  |  |  |  |  |
|  | **405 Contract Administration – Part 1** | | | | | | |
| **2 CFR 200.318(b)** | **Contract Administration**  Non-Federal entities must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders. | | | | | | |
|  | **Contract Administration – Project Manager Identified**  Do the solicitation documents identify a procurement project manager? |  |  |  |  |  |  |
|  | **Contract Administration – Evaluators Identified**  Did the recipient identify the procurement evaluators? |  |  |  |  |  |  |
| **\*2 CFR 200.318(c)(1)** | **Contract Administration – Conflicts of Interest\***  … a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the non-Federal entity may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, non-Federal entities may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-Federal entity.  Does the solicitation appear to avoid any real or apparent conflict of interest? |  |  |  |  |  |  |
| **\*2 CFR 200.318(c)(2)** | **Contract Administration – Organizational Conflicts of Interest**  … Organizational conflicts of interest means that because of relationships with a parent company, affiliate, or subsidiary organization, the non-Federal entity is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization.  Does the solicitation appear to avoid any real or apparent organizational conflict of interest? |  |  |  |  |  |  |
| **4220.1F.VI.2.a.(4)**  **\*2 CFR 200.319** | **Full and Open Competition Analysis – Avoid Prohibited Requirements that Restrict Competition**   * All procurement transactions for the acquisition of property or services required under a Federal award must be conducted in a manner providing full and open 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. | | | | | | |
| **4220.1F.VI.2.a.(4)(b)**  **\*2 CFR 200.319(d)(1)** | **Full and Open Competition Analysis – Specifications – Not Unduly Restrict Competition\***  Solicitations must incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not, in competitive procurements, contain features which unduly restrict competition. |  |  |  |  |  |  |
| **\*2 CFR 200.319(b)** | **Full and Open Competition Analysis – Specifications – Eliminate Unfair Advantage\***  In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements. |  |  |  |  |  |  |
| **4220.1F.VI.2.a.(4)(a)**  **\*2 CFR 200.319(b)(1)** | **Full and Open Competition Analysis – Specifications – 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)** | **Full and Open Competition Analysis – Specifications – Unnecessary Experience\***  Do the solicitation specifications avoid requiring unnecessary experience? |  |  |  |  |  |  |
| **4220.1F.VI.2.a.(4)I**  **\*2 CFR 200.319(b)(2)** | **Full and Open Competition Analysis – Specifications – Excessive Bonding\***  The solicitation does not impose excessive bonding requirements? |  |  |  |  |  |  |
| **4220.1F.VI.2.a.(4)(f)**  **\*2 CFR 200.319(b)(6)** | **Full and Open Competition Analysis – Specifications – Brand Name Descriptions\***  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)(j)**  **\*2 CFR 200.319(b)(7)** | **Full and Open Competition Analysis – Specifications – Arbitrary Action\***  No unrelated requirements to the item/service procured or arbitrary actions are required? |  |  |  |  |  |  |
| **4220.1F.VI.2.a.(4)(g)**  **\*2 CFR 200.319(c)** | **Full and Open Competition Analysis – Specifications – Avoid Geographic Preferences\***  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, if there are still an appropriate number of firms, given the nature and size of the project, to compete for the contract. |  |  |  |  |  |  |
| **4220.1F.VI.2.a.(4)(i)**  **\*2 CFR 200.319(b)(3)** | **Full and Open Competition Analysis – Collusion Among Vendors\***  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.  The recipient has the capacity to review the procurement and evaluate for any noncompetitive pricing practices that have the effect limiting full and open competition? |  |  |  |  |  |  |
| **4220.1F.VI.1.c.**  **\*2 CFR 200.319(e)** | **Prequalification Procedure Analysis** | | | | | | |
| **4220.1F.VI.1.c.(1)**  **4220.1F.VI.2.a.(4)(a)**  **\*2 CFR 200.319(e)** | **Prequalification – Current Prequalification Lists\***  Prequalification lists are most commonly used in procurements of consulting for A&E services or construction involving lengthy evaluations needed to determine whether it satisfies the recipient’s standards. The Uniform Guidance 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)**  **\*2 CFR 200.319(e)** | **Prequalification – Sufficient Qualified 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)**  **\*2 CFR 200.319(e)** | **Prequalification – Qualification During Solicitation\***  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. |  |  |  |  |  |  |
| **2 CFR 200.318(k)** | **Protections Against Performance Difficulties**  The non-Federal entity alone must be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the non-Federal entity of any contractual responsibilities under its contracts. The Federal awarding agency will not substitute its judgment for that of the non-Federal entity unless the matter is primarily a Federal concern. Violations of law will be referred to the local, state, or Federal authority having proper jurisdiction. | | | | | | |
| **4220.1F.VII.1.a.(1)**  **\*2 CFR 200.318(k)** | **Protections Against Performance Difficulties – 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 recipient make protest procedures available to offerors in the solicitation? |  |  |  |  |  |  |
| **4220.1F.VII.2.a.(1)**  **\*2 CFR 200.318(k)** | **Protections Against Performance Difficulties – Changes and Modifications\***  The recipient is responsible for issuing, evaluating, and making necessary decisions involving any change to its third party contracts, and any change orders, or modifications it may issue. The recipient is also responsible for evaluating and making the necessary decisions involving any claim of a constructive change.  Provisions that address changes and changed conditions are needed for third party contracts except for routine supply contracts.  Does the recipient make change and modification provisions available to offerors in the solicitation, and include provision in the proposed third party contract? |  |  |  |  |  |  |
| **4220.1F.VI.6.a.**  **\*2 CFR 200.324(a)** | **Protections Against Performance Difficulties – Changes and Modifications – Cost Analysis Requirement\***  … The recipient is also expected to obtain a cost analysis when price competition is inadequate, when only a sole source is available, even if the procurement is a contract modification, or in the event of a change order. The recipient, however, need not obtain a cost analysis if it can justify price reasonableness of the proposed contract based on a catalog or market price of a commercial product sold in substantial quantities to the general public or based on prices set by law or regulation.  Does the recipient have provisions to complete a cost analysis for all allowable changes and modifications for the contract/purchase to be procured? |  |  |  |  |  |  |
| **4220.1F.V.7.b.(2)**  **4220.1F.VII.1.a.(2)**  **\*2 CFR 200.318(k)** | **Protections Against Performance Difficulties – Changes and Modifications – Cardinal Changes\***  A significant change in contract work (property or services) that causes a major deviation from the original purpose of the work or the intended method of achievement, or causes a revision of contract work so extensive, significant, or cumulative that, in effect, the contractor is required to perform very different work from that described in the original contract, is a cardinal change.  This transaction does not appear to have created a cardinal change and the recipient is ready to evaluate any changes to the future contract to avoid a cardinal change? |  |  |  |  |  |  |
| **4220.1F.VII.3.**  **\*2 CFR 200.318(k)** | **Protections Against Performance Difficulties – Disputes\***  The non-Federal entity alone must be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, …  The Common Grant Rules charge the recipient with responsibility for evaluating and resolving third party contract disputes.  Does the recipient make dispute procedures available to offerors? |  |  |  |  |  |  |
| **4220.1F.VII.4.**  **\*2 CFR 200.318(k)** | **Protections Against Performance Difficulties – Claims and Litigation\***  The non-Federal entity alone must be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. …  The Common Grant Rules charge the recipient with responsibility for evaluating and resolving third party contract claims and litigation resulting from a contractor’s violation, default, or breach of its third party contracts with recipients of Federal assistance. The recipient is also responsible for resolving any claims and litigation the contractor may present against it.  Does the recipient make claim and litigation procedures available to offerors? |  |  |  |  |  |  |
| **4220.1F.IV.2.b.(6)(b)1**  **\*2 CFR 200.318(k)** | **Protections Against Performance Difficulties – Claims and Litigation – Liquidated Damages\***  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.  If liquidated damages are used are they disclosed in the solicitation and contract document and is there documentation as to the rate to be charged? |  |  |  |  |  |  |
|  | **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** | | | | | | |