**Procurement Clauses and Certifications 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*** | ***Clauses*** | ***Applicability*** | ***State Only*** | ***Statewide*** | ***Sole Source*** | ***Small*** | ***Element Required*** | ***Element Documentation Location &/or Explanation, if required*** | ***TDOT Confirmation*** |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | **TENNESSEE STATE** | | | | | | | | |
|  | **State Contract Requirements - All State Assisted Third Party Subcontracts and Procurements** | | | | | | | | |
| State Contract Paragraph Subcontracting Clause  State Contract Conflicts of Interest Clause | Conflicts of Interest.  The Grantee warrants that no part of the total Grant Contract Amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Grantee in connection with any work contemplated or performed relative to this Grant Contract. | * All procurement contracts for services * Not applicable for procurement contracts for non-services |  |  |  |  |  |  |  |
| State Contract Paragraph Subcontracting Clause  State Contract Paragraph Lobbying Clause | Lobbying.  The Grantee certifies, to the best of its knowledge and belief, that:  a. No federally appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.  b. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this contract, grant, loan, or cooperative agreement, the Grantee shall complete and submit Standard Form-LLL, “Disclosure of Lobbying Activities,'' in accordance with its instructions.  c. The Grantee shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.  This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into and is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352 | * All procurement contracts |  |  |  |  |  |  |  |
| State Contract Paragraph Subcontracting Clause  State Contract Paragraph Nondiscrimination Clause | Nondiscrimination.  The Grantee hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Grant Contract or in the employment practices of the Grantee on the grounds of handicap or disability, age, race, color, religion, sex, national origin, or any other classification protected by federal, Tennessee state constitutional, or statutory law. The Grantee shall, upon request, show proof of nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination. | * All procurement contracts for services * Not applicable for procurement contracts for non-services |  |  |  |  |  |  |  |
| State Contract Paragraph Subcontracting Clause  State Contract Paragraph Public Accountability Clause | Public Accountability.  If the Grantee is subject to Tenn. Code Ann. § 8-4-401 et seq., or if this Grant Contract involves the provision of services to citizens by the Grantee on behalf of the State, the Grantee agrees to establish a system through which recipients of services may present grievances about the operation of the service program. The Grantee shall also display in a prominent place, located near the passageway through which the public enters in order to receive Grant supported services, a sign at least eleven inches (11") in height and seventeen inches (17") in width stating:  NOTICE: THIS AGENCY IS A RECIPIENT OF TAXPAYER FUNDING. IF YOU OBSERVE AN AGENCY DIRECTOR OR EMPLOYEE ENGAGING IN ANY ACTIVITY WHICH YOU CONSIDER TO BE ILLEGAL, IMPROPER, OR WASTEFUL, PLEASE CALL THE STATE COMPTROLLER’S TOLL-FREE HOTLINE: 1-800-232-5454.  The sign shall be on the form prescribed by the Comptroller of the Treasury. The Grantor State Agency shall obtain copies of the sign from the Comptroller of the Treasury, and upon request from the Grantee, provide Grantee with any necessary signs. | * All procurement contracts for services * Not applicable for procurement contracts for non-services |  |  |  |  |  |  |  |
| State Contract Paragraph Subcontracting Clause  State Contract Paragraph Public Notice Clause | Public Notice.  All notices, informational pamphlets, press releases, research reports, signs, and similar public notices prepared and released by the Grantee in relation to this Grant Contract shall include the statement, “This project is funded under a grant contract with the State of Tennessee, Department of Transportation.” All notices by the Grantee in relation to this Grant Contract shall be approved by the State. | * All procurement contracts for services * Not applicable for procurement contracts for non-services |  |  |  |  |  |  |  |
| State Contract Paragraph Subcontracting Clause  State Contract Paragraph Records Clause | Records.  The Grantee and any approved subcontractor shall maintain documentation for all charges under this Grant Contract. The books, records, and documents of the Grantee and any approved subcontractor, insofar as they relate to work performed or money received under this Grant Contract, shall be maintained in accordance with applicable Tennessee law. In no case shall the records be maintained for a period of less than five (5) full years from the date of the final payment. The Grantee’s records shall be subject to audit at any reasonable time and upon reasonable notice by the Grantor State Agency, the Comptroller of the Treasury, or their duly appointed representatives.  The records shall be maintained in accordance with Governmental Accounting Standards Board (GASB) Accounting Standards or the Financial Accounting Standards Board (FASB) Accounting Standards Codification, as applicable, and any related AICPA Industry Audit and Accounting guides.  In addition, documentation of grant applications, budgets, reports, awards, and expenditures will be maintained in accordance with U.S. Office of Management and Budget’s *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*.  Grant expenditures shall be made in accordance with local government purchasing policies and procedures and purchasing procedures for local governments authorized under state law.  The Grantee shall also comply with any recordkeeping and reporting requirements prescribed by the Tennessee Comptroller of the Treasury.  The Grantee shall establish a system of internal controls that utilize the COSO Internal Control -Integrated Framework model as the basic foundation for the internal control system. The Grantee shall incorporate any additional Comptroller of the Treasury directives into its internal control system.  Any other required records or reports which are not contemplated in the above standards shall follow the format designated by the head of the Grantor State Agency, the Central Procurement Office, or the Commissioner of Finance and Administration of the State of Tennessee. | * All procurement contracts |  |  |  |  |  |  |  |
| State Contract Paragraph Environmental Tobacco Clause | Environmental Tobacco Smoke  Pursuant to the provisions of the federal “Pro-Children Act of 1994” and the “Children’s Act for Clean Indoor Air of 1995,” Tenn Code Ann. §§39-17-1601 through 1606, the Grantee shall prohibit smoking of tobacco products within any indoor premises in which services are provided to individuals under the age of eighteen (18) years.  The Grantee shall post “no smoking” signs in appropriate, permanent sites within such premises.  This prohibition shall be applicable during all hours, not just the hours in which children are present.  Violators of the prohibition may be subject to civil penalties and fines.  This prohibition shall apply to and be made part of any subcontract related to this Grant Contract.” | * All procurement contracts |  |  |  |  |  |  |  |
| State Contract Paragraph Debarment and Suspension | Debarment and Suspension  The Grantee certifies, to the best of its knowledge and believe, that the Selected Offeror:  a. is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency;  b. has not within a three (3) year period preceding this Grant Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offence in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;  c. is not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed in section b. of this certification; and  d. has not within a three (3) year period preceding this Grant Contract had one or more public transactions (federal, state, or local) terminated for cause or default.  The Grantee will provide immediate written notice to the State if at any time it learns that there was an earlier failure to disclose information or that due to changed circumstances, the Selected Offeror is excluded or disqualified, or presently falls under any of the prohibitions of sections a-d. | * Not Micro Purchase * Only if Purchase Order or Contract issued * If Federal Debarment and Suspension option is included in procurement documents, this clause is not needed per External Audit Division |  |  |  |  |  |  |  |
|  | **FEDERAL** | | | | | | | | |
|  | **All FTA Assisted Third Party Contracts and Subcontracts** | | | | | | | | |
| 4220.1F Appendix D A.  2022 MA §3(i)(5)  2022 MA §16(a) | Incorporation of FTA Terms  Requirements to Third Party Participants   * Third Party Agreements – Incorporation of FTA terms. | * Not Micro-Purchase * All Contracts |  |  |  |  |  |  |  |
| 2022 MA §3(i)(6) | Notice to Third Party Participants  (Changes to Federal Requirements)  Requirements to Third Party Participants   * Third Party Participants Notice requirement – Include Changes to Federal requirements apply. | * Not Micro-Purchase * All Contracts |  |  |  |  |  |  |  |
| 4220.1F.IV.2.a.(5)(a)  4220.1F.IV.2.a.(5)(b)  4220.1F.IV.2.a.(5)(c)  4220.1F.IV.2.a.(5)(d)  4220.1F.IV.2.c.(2)  2022 MA §12  PP Civil Rights & Equal Opp | Civil Rights Clause   * Civil Rights Requirements * Nondiscrimination in Federal Public Transportation Programs * Nondiscrimination – Title VI of the Civil Rights Act * Equal Employment Opportunity * DBE * Nondiscrimination on the Basis of Sex * Nondiscrimination on the Basis of Age * Nondiscrimination on the Basis of Disability * Drug & Alcohol Abuse | * Not Micro Purchase |  |  |  |  |  |  |  |
| 4220.1F.IV.2.a.(6)  49 CFR Part 26  2 CFR 200.321(6) | Disadvantaged Business Enterprise (DBE) Assurance Clause  Clause is for the contractor to assure that they will abide by DBE rules. Such as who is eligible and encouraging DBE participation. | * Not Micro Purchase |  |  |  |  |  |  |  |
| 4220.1F Appendix D A.  2022 MA §3(l) | No Federal Government Obligations to Third Parties | * Not Micro Purchase * All Contracts |  |  |  |  |  |  |  |
| 4220.1F Appendix D A.  2022 MA §4(e) | False or Fraudulent Statements or Claims | * Not Micro Purchase * All Contracts |  |  |  |  |  |  |  |
| 49 CFR Part 26.29(a) | Prompt Payment   * All non-TVM contracts with subcontractors if threshold for a DBE program met | * Not Micro Purchase * Non-TVM Contracts * Use Subcontractors |  |  |  |  |  |  |  |
| 49 CFR Part 26.29(b) | Return of Retainage  (Included in Prompt Payment)   * All non-TVM contracts with subcontractors if threshold for a DBE program met | * Not Micro Purchase * Non-TVM Contracts * Use Subcontractors * Include, however TDOT does not allow retainage, use non-retainage option |  |  |  |  |  |  |  |
| 2022 MA §9 | Access to Records and Reports  (Record Retention and Access to Sites of Performance)   * Access to recipient and third party participant records * Access to the sites of performance | * Not Micro-Purchase |  |  |  |  |  |  |  |
| 4220.1F.IV.2.c.(4)  42 USC 6321  42 U.S.C. § 6201 | Energy Conservation  Required third party contract provisions as necessary for compliance with applicable energy efficiency standards and policies of State energy conservation plans issued under the Energy Policy and Conservation Act. | * Not Micro Purchase |  |  |  |  |  |  |  |
| 4220.1F.IV.2.a(8-9)  2022 MA §34(a)(2)  2022 MA §34(b)(3)(iii) | Safe Operation of Motor Vehicles   * Require Seat Belt Use provision in each third party agreement * Require Distracted Driving, including text messaging while driving, provision in each third party agreement | * Not Micro Purchase * Third Party Agreement |  |  |  |  |  |  |  |
| 2023 MA §4(f) | Trafficking in Persons | * Not Micro Purchase * For profit and non-profit organizations |  |  |  |  |  |  |  |
| 2023 MA §4(g) | Federal Tax Liability and Recent Felony Convictions (Clause) | * Not Micro Purchase * Applicable to private corporation, partnership, trust, joint-stock company, sole proprietorship, or other business association * Not applicable to Non-profit organization |  |  |  |  |  |  |  |
| 2 CFR 200 Appendix II (K)  2 CFR 200.216 | Prohibition on certain telecommunications and video surveillance services or equipment   * Public law 115-232 §889 * Prohibited equipment produced by list of companies | * Equipment produced by prohibited companies |  |  |  |  |  |  |  |
|  | **Awards Exceeding $10,000** | | | | | | | | |
| 2 CFR 200 Appendix II (B)  2022 MA §16(d)(2) | Termination for Cause or for Convenience   * Termination for cause and for convenience including the manner by which it will be affected and the basis for settlement. | * Not Micro-Purchase * >$10,000 |  |  |  |  |  |  |  |
|  | **Awards Exceeding $25,000** | | | | | | | | |
| 2 CFR §180.300  2 CFR 200 Appendix II (H)  2022 MA §16(d)(8) | Debarment and Suspension   * Requirement for contractor is   + Checking SAM exclusions or   + Collecting a certification from the contractor or   + Adding a clause or condition to the cover transaction with the contractor | * Not Micro-Purchase * >$25,000 (Usually) * SAM verification is preferred but not required * If use certification in procurement documents or SAM verification, clause is not needed * If use clause in procurement documents or SAM verification, certification is not needed |  |  |  |  |  |  |  |
| 2022 MA §39(b) | Notice to FTA and USDOT Disputes, Breaches, Defaults, and Litigation   * Notice to FTA and USDOT Inspector General of information related to fraud, waste, abuse, or other legal matters. | * “Covered transaction” according to 2 CFR §180.220 & §1200.220 * >$25,000 * Require prime contractor to flow down to subcontractors |  |  |  |  |  |  |  |
|  | **Awards Exceeding $100,000** | | | | | | | | |
| 2 CFR 200 Appendix II (I)  2022 MA §16(d)(9) | Restrictions on Lobbying  (Byrd Anti-Lobbying Amendment Clause)   * Complete required certification to tier above * Federal funds not used in lobbying * Not member of agency, Congress, Congress employee | * Not Micro-Purchase * Same as State D.7. Clause * >$100,000 |  |  |  |  |  |  |  |
|  | **Awards Exceeding $150,000** | | | | | | | | |
| 2 CFR 200 Appendix II (G)  4220.1F.IV.2.c.(3)  42 USC §§7401 – 7671q  33 USC §§1251 - 1388  2022 MA §16(d)(7) | Clean Air Act & Federal Water Pollution Control Act   * Comply with Clean Air Act standards * Comply with Federal Water Pollution Control Act * Violations must be reported to FTA and EPA | * Not Micro-Purchase * >$150,000 |  |  |  |  |  |  |  |
| 2 CFR 200 Appendix II (L)  2 CFR 200.322  4220.1F.IV.2.c.(5)  4220.1F.IV.2.i.(9)  2022 MA §15  2022 MA §16(m) | Buy America Clause - Domestic Preference for Procurements   * Produced in the United States | * Not Micro-Purchase * Including but not limited to iron, aluminum, steel, cement, and other manufactured goods * Rolling Stock – Revenue and Support Vehicles * >$150,000 |  |  |  |  |  |  |  |
|  | **Awards Exceeding the Simplified Acquisition Threshold** | | | | | | | | |
| 4220.1F.IV.2.b.(6) – see the 2 CFR reference for current version  2 CFR 200 Appendix II (A)  2022 MA §16(d)(1) | Violation and Breach  (Legal Remedies for Violation or Breach)   * Administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. | * Not Micro-Purchase * >$250,000 (>SAT) |  |  |  |  |  |  |  |
| 2022 MA §16(d)(1) | Simplified Acquisition Threshold | * Not Micro Purchase * >$250,000 |  |  |  |  |  |  |  |
|  | **Non-Construction Activities** | | | | | | | | |
| 2 CFR 200 Appendix II (E)  4220.1F.IV.2.i.(7)  40 USC 3701 – 3708  2023 MA §16(d)(5)  2023 MA §24(b)  29 CFR Part 5 | Contract Work Hours and Safety Standards Act  (Combined with Construction Contract Work Hours and Safety Standards Act – Identical Clause)   * Wages based on 40 hour standard work week * Pay at 1.5 times standard rate for hours over 40 * No unsanitary, hazardous, or dangerous conditions * Does not apply to supplies, materials, articles available on the open market. | * Not Micro-Purchase * Non-Construction Workers * Employ mechanics * Employ laborers * >$100,000 * Not supplies purchase * Not materials purchase * Not articles purchase |  |  |  |  |  |  |  |
|  | **Construction Activities** | | | | | | | | |
| 2 CFR 200 Appendix II (D)  4220.1F.IV.2.i.(5)  2022 MA §16(d)(4) | Davis-Bacon Act and Copeland Anti-Kickback Act  (Davis-Bacon Act)  Combined with Copeland Anti-Kickback Act   * Pay laborers/mechanics prevailing wage * Pay not less than once per week * Prevailing wage listed in solicitation document * Award conditioned on contractor acceptance * Report all suspected or reported violations | * Prime construction contract * >$2,000 * Includes Micro-Purchases |  |  |  |  |  |  |  |
| 2 CFR 200 Appendix II (D)  4220.1F.IV.2.i.(6)  29 CFR 3.1 and 3.11  18 USC §874  40 USC §3145  2022 MA §16(d)(4) | Davis-Bacon Act and Copeland Anti-Kickback Act  (Copeland Anti-Kickback Act)  Combined with Davis-Bacon Act   * Provision for Copeland Anti-Kickback Act compliance * Prohibition from compensation give up * Report all suspected or reported violations | * Prime construction contract * >$2,000 * Includes Micro-Purchases |  |  |  |  |  |  |  |
| 2 CFR 200 Appendix II (E)  4220.1F.IV.2.i.(7)  40 USC 3701 – 3708  2023 MA §16(d)(5)  2023 MA §24(a) | Contract Work Hours and Safety Standards Act  (Combined with Construction Contract Work Hours and Safety Standards Act)   * Wages based on 40 hour standard work week * Pay at 1.5 times standard rate for hours over 40 * No unsanitary, hazardous, or dangerous conditions * Does not apply to supplies, materials, articles available on the open market. | * Not Micro-Purchase * Construction Workers * >$100,000 * Not supplies purchase * Not materials purchase * Not articles purchase |  |  |  |  |  |  |  |
| 4220.1F.IV.2.i.(2)  49 CFR §41.117 | Seismic Safety   * Design and construction of new building and addition to existing buildings financed in whole or in part through Federal grants. | * Not Micro Purchase * Construction Contract of new buildings or additions to existing buildings |  |  |  |  |  |  |  |
| 4220.1F.IV.2.i.(10)  2022 MA §12  PP Civil Rights & Equal Opportunity | Americans with Disabilities Act (ADA)  (Construction – Accessibility (ADA))  This is the same clause to use in the Rolling Stock section. | * Not Micro Purchase * Construction Contract |  |  |  |  |  |  |  |
| 4220.1F.IV.2.i.(4)  2 CFR 200 Appendix II (C)  2022 MA §16(d)(3) | Special DOL EEO Clause  (Construction – Equal Employment Opportunity) | * Not Micro Purchase * Construction Contract |  |  |  |  |  |  |  |
| 4220.1F.IV.2.c.(1)(c)  49 USC §5325(k) | Veterans Hiring Preference  (Veterans Employment)  Capital project hiring preference. | * Not Micro Purchase * Capital Contract |  |  |  |  |  |  |  |
| 4220.1F.IV.2.i.(1)  2 CFR 200.326 | Bonding   * Bid Guarantee – 5% of bid price – The “bid guarantee” must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required  within the time specified. * Performance Bond – 100% of contract price – A “performance bond” is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract. * Payment Bond – 100% of contract price – A “payment bond” is one executed in connection with a contract to assure payment as required by  law of all persons supplying labor and material in the execution of the work provided for in the contract. | * Not Micro Purchase * Construction Contract * >$250,000 |  |  |  |  |  |  |  |
|  | **Transit Operation Activities** | | | | | | | | |
| 4220.1F.IV.2.f.(5)  2022 MA §24(d) | Public Transportation Employee Protective Arrangements Certification  (Only clause needed. Certification require from US DOL.) | * Not Micro Purchase * Transit Operating Contract |  |  |  |  |  |  |  |
| 4220.1F.IV.2.f.(6)  49 USC §5323(f)  2022 MA §29 | School Bus Operations  (School Bus Operations Restrictions)   * A third party contractor performing services using FTA assisted facilities or equipment may not use those facilities or that equipment to support exclusive school bus operations except as permitted by 49 U.S.C. Sections 5323(f) or (g) and FTA regulations, “School Bus Operations,” 49 CFR Part 605, to the extent consistent with 49 U.S.C. Sections 5323(f) or (g). | * Not Micro Purchase * Transit Operating Contract |  |  |  |  |  |  |  |
| 4220.1F.IV.2.f.(5)  49 USC §5323  49 CFR Part 604  2022 MA §28 | Charter Service Restrictions   * A third party contractor performing services using FTA assisted facilities or equipment may not use those facilities or that equipment to support any charter service operations except as permitted by 49 USC Section 5323(d) and FTA regulations, “Charter Service,” 49 CFR Part 604. | * Not Micro Purchase * Transit Operating Contract * Transit operations funded with 5307, 5309, 5311, and 5316 funds |  |  |  |  |  |  |  |
| 4220.1F.IV.2.f.(2)  49 CFR Part 40.11(c)  2022 MA §35 | Substance Abuse Requirements  (Drug Use and Testing and Alcohol Misuse and Testing)   * A third party contractor providing services involving the performance of safety sensitive activities must comply with 49 U.S.C. Section 5331 and FTA regulations, “Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations,” 49 CFR Part 655. | * Not Micro Purchase * Transit Operating Contract |  |  |  |  |  |  |  |
|  | **Miscellaneous Special Requirements** | | | | | | | | |
| 4220.1F.IV.2.c.(6)  46 CFR Part 381.7 | Cargo Preference Requirement  (Shipments of Property)   * US Flag Requirements | * Not Micro Purchase * Acquiring property possibly shipped by ocean vessel |  |  |  |  |  |  |  |
| 4220.1F.IV.2.c.(7) | Fly America   * Use of US Flag Air Carriers | * Not Micro Purchase * Projects that include transportation of persons or property by air, origin or destination is either or both outside US |  |  |  |  |  |  |  |
| 2 CFR 200 Appendix II (F)  2022 MA §16(d)(6) | Patent Rights and Rights in Data  (Rights to Inventions Made under a Contract Agreement)   * Contracts that meet the definition of “funding agreement” under 37 CFR §401.2 (a). * Recipient contract with small business firm or non-profit organization. * Performance of experimental, development, research work, recipient to comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements.” | * Not Micro-Purchase * Funding agreement * Contract with small business * Contract with non-profit org |  |  |  |  |  |  |  |
| 2 CFR 200 Appendix II (J)  2 CFR 200.323  4220.1F.IV.2.c.(3)(f)  2022 MA §16(d)(10) | Solid Wastes  (Procurement of Recovered Materials)   * Comply with §6002 of the Solid Waste Disposal Act * When procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition. * Solid waste management procurement maximizes energy and resource recovery * Establish affirmative program for procurement of recovered materials | * Not Micro-Purchase * Recipient is State or Political Subdivision of State * Designated items * >$10,000 * >$10,000 total previous year |  |  |  |  |  |  |  |
| 4220.1F.IV.2.d.(1)  23 USC §517(d)  66 FR 1455 | Conformance with ITS National Architecture  (Intelligent Transportation Systems)  Intelligent transportation system (ITS) property and services must comply with the National ITS Architecture and Standards. | * Not Micro Purchase * Projects with ITS components |  |  |  |  |  |  |  |
|  | **Rolling Stock** | | | | | | | | |
| 4220.1F.IV.2.e.(1)  49 CFR Part 37  36 CFR Part 1192  49 CFR Part 38 | Americans with Disabilities Act (ADA)  (Rolling Stock – Accessibility)  Rolling Stock must comply with accessibility requirements.  Certification is required in current years Master Agreement.  This is the same clause to use in the Construction Stock section. | * Not Micro Purchase * Rolling Stock |  |  |  |  |  |  |  |
| 49 U.S.C. § 5323(m)  49 CFR Part 663  2023 MA §16(m) | Pre-Award and Post-Delivery Audits of Rolling Stock Purchases (Clause) | * Not Micro Purchase * Rolling Stock – Revenue, not Support Vehicles |  |  |  |  |  |  |  |
| 4220.1F.IV.2.  49 USC §5318  49 CFR Part 665  2023 MA §16(m) | Bus Testing (Clause)  Assurance of compliance with requirement Bus Testing | * Not Micro Purchase * Rolling Stock – Revenue, not support vehicles |  |  |  |  |  |  |  |
| 4220.1F.IV.2.e.(5)  40 CFR Part 85  40 CFR Part 86  40 CFR Part 600 | Air Pollution and Fuel Economy  Each third party contract to acquire rolling stock must include provisions to ensure compliance with applicable Federal air pollution control and fuel economy regulations. | * Not Micro Purchase |  |  |  |  |  |  |  |
|  | **END OF CLAUSE CHECKLIST** | | | | | | | | |

| ***Regulation*** | ***Certifications*** | ***Applicability*** | ***State Only*** | ***Statewide*** | ***Sole Source*** | ***Small*** | ***Element Required*** | ***Element Documentation Location &/or Explanation, if required*** | ***TDOT Confirmation*** |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | **Federal** | | | | | | | | |
|  | **All FTA Assisted Third Party Contracts and Subcontracts** | | | | | | | | |
| 2023 MA §4(g) | Federal Tax Liability and Recent Felony Convictions (Certification) | * Not Micro Purchase * Applicable to private corporation, partnership, trust, joint-stock company, sole proprietorship, or other business association * Not applicable to Non-profit organization |  |  |  |  |  |  |  |
|  | **Awards Exceeding $25,000** | | | | | | | | |
| 2 CFR §180.300  2 CFR 200 Appendix II (H)  2022 MA §16(d)(8) | Debarment and Suspension   * Requirement for contractor is   + Checking SAM exclusions or   + Collecting a certification from the contractor or   + Adding a clause or condition to the cover transaction with the contractor | * Not Micro-Purchase * >$25,000 (Usually) * If use certification in procurement documents, clause is not required * If use clause in procurement documents, certification is not required * SAM exclusions is preferred |  |  |  |  |  |  |  |
|  | **Awards Exceeding $100,000** | | | | | | | | |
| 4220.1F.IV.2.a.(4)  49 CFR Part 20 | Lobbying Certification | * Not Micro Purchase * >$100,000 |  |  |  |  |  |  |  |
|  | **Awards Exceeding $150,000** | | | | | | | | |
| ProcurementPro Certification  49 CFR Part 661 | Buy America Certification  Bidder or offeror must submit to the Agency the appropriate Buy America certification. | * Not Micro Purchase * Use one for either   + Steel, Iron, Manufactured Products   + Rolling Stock * >$150,000 |  |  |  |  |  |  |  |
|  | **Transit Operation Activities** | | | | | | | | |
| 4220.1F.IV.2.f.(5)  49 USC §5333(b)  2022 MA §24(d) | Public Transportation Employee Protective Arrangements (Clause) | * Not Micro Purchase * Transit Operating Contract * Transit operations funded with 5307, 5308, 5309, 5310, 5311, 5312, and 5316 funds |  |  |  |  | This is a DOL, not a Recipient certification |  |  |
|  | **Rolling Stock** | | | | | | | | |
| (49 CFR §37.77) | Equivalent Service (Certification)  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? | * 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 |  |  |  |  | Requirement on Grantee or Subrecipient, not a pass-through clause or certification for a third-party vendor |  |  |
| 4220.1F.IV.2.e.(7)  49 USC §5318  49 CFR Part 665.7 | Bus Testing (Certification)   * Recipient (TDOT) to certify in the FTA application that it has determined that a vehicle to be acquired has satisfied the requirements that   + The vehicle was tested at the Bus Testing Facility and that   + The vehicle received a passing score.   + The recipient has received the full Bus Testing Report and any partial testing reports before the acceptance of the first vehicle. | * FTA application certification by recipient (TDOT), usually completed in the TrAMS grant application document in the Executive Summary and possibly in the Activity Line Item (ALI) description |  |  |  |  | N/A for Grantees or Subrecipients  Required of TDOT or Direct Recipient in FTA Grant Application |  |  |
| IIJA §30018  Fast Act §3019 | Innovative Procurement Requirement   * The 5339 program is for the provision of bus and bus facilities capital investment subsidization for transit agencies. The program contains the provision that to the extent practicable subrecipients should seek to use Innovative Procurement. Innovative Procurement includes the use of the following procurement tools,   + Interstate Cooperative Procurements – participation in a cooperative contract with other grantees, including those in other states.   + State Cooperative Procurement Schedules – state government cooperative procurement contract with one or more vendors which include an option to purchase rolling stock and allows for other participants to use the contract   + Pilot Program for Non-Profit Cooperative Procurements – a pilot program established by the USDOT Secretary of cooperative procurement contracts administered by nonprofit entities   + Joint Procurement Clearinghouse – a clearinghouse established by the USDOT Secretary to aggregate planned rolling stock purchases and identify joint procurement participants   + Leasing – capital leasing arrangements in lieu of purchases, which encourages the capital leasing of zero emission vehicle components.   If a subrecipient purchases less than five buses through a stand alone procurement, the subrecipient is required to provide a written explanation to the Secretary explaining why the tools were not utilized. | * Not Micro Purchase * Purchasing less than 5 buses (vehicles) * Only for vehicles used in public transportation * Not service vehicles * At least partially funded with 5339 program funds * Innovative Procurement tools not used |  |  |  |  | Requirement on Grantee or Subrecipient, not a pass-through clause or certification for a third-party vendor |  |  |
| 4220.1F.IV.2.e.(2)  49 CFR §26.49 | Transit Vehicle Manufacturer (TVM) Compliance with DBE Requirements  Transit Vehicle Manufacturer (TVM) must submit a certification that it has complied with the FTA’s DBE requirements. | * Not Micro Purchase * Only for vehicles used in public transportation * Not service vehicles |  |  |  |  |  |  |  |
| 4220.1F.IV.2.e.(6)  49 USC §5323(m)  49 CFR Part 663 | Pre-Award Buy America Certification   * Recipient certification that the recipient is satisfied that the rolling stock to be purchased   + Has a letter from the FTA for a Buy America waiver of requirements under §§ 165(b)(1), (b)(2), or (b)(4) of §§ 165(b)(3) of the Surface Transportation Assistance Act of 1982 or   + Meets the requirements of §§ 165(b)(3) of the Surface Transportation Assistance Act of 1982 after having reviewed 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. * US Manufacturing content must meet percentage requirements – Post Federal Fiscal Years 2019, more than 70% | * Not Micro Purchase * Rolling Stock * Collect after select winning bid and before entering contract |  |  |  |  |  |  |  |
| 4220.1F.IV.2.e.(6)  49 USC §5323(m)  49 CFR Part 663 | Pre-Award Purchaser’s Requirement   * Recipient certifies that   + Rolling stock to be contracted for is the same as described in the purchaser’s solicitation specification, and   + The proposed manufacturer is a responsible manufacturer with the capability to produce a vehicle that meets the specifications set forth in the solicitation. | * Not Micro Purchase * All Rolling Stock Purchases * Collect after select winning bid * Collect before entering contract |  |  |  |  |  |  |  |
| 4220.1F.IV.2.e.(6)  49 USC §5323(m)  49 CFR Part 663 | Pre-Award Federal Motor Vehicle Safety Standards (FMVSS) Certification   * The recipient’s certification that is has received a copy of the manufacturer's self-certification of compliance with or inapplicability of the Federal Motor Vehicle Safety Standards (FMVSS), required by §319 of STURAA and 49 CFR §663. | * Not Micro Purchase * All Rolling Stock Purchases * Collect after select winning bid * Collect before entering contract |  |  |  |  |  |  |  |
| 4220.1F.IV.2.e.(6)  49 USC §5323(m)  49 CFR Part 663 | Post Delivery Buy America Certification   * Recipient certification that the recipient is satisfied that the rolling purchased   + Has a letter from the FTA for a Buy America waiver of requirements under §§ 165(b)(1), (b)(2), or (b)(4) of §§ 165(b)(3) of the Surface Transportation Assistance Act of 1982 or   + Meets the requirements of §§ 165(b)(3) of the Surface Transportation Assistance Act of 1982 after having reviewed documentation that lists     - Component and subcomponent parts identified by manufacturer of parts of rolling stock purchased, their country of origin and costs, and     - The location of the final assembly point with a description of the activities that took place at the final assembly point and the cost of final assembly. * US Manufacturing content must meet percentage requirements – Post Federal Fiscal Years 2019, more than 70% | * Not Micro Purchase * Rolling Stock * Collect upon delivery, but before earlier of title is transferred or rolling stock put into revenue service |  |  |  |  |  |  |  |
| 4220.1F.IV.2.e.(6)  49 USC §5323(m)  49 CFR Part 663 | Post Delivery Purchaser’s Requirement   * A recipient certification that the recipient keeps on file that * For procurements of 10 or fewer buses, or procurements of 20 or fewer vehicles to serve rural areas, or any number of primary manufacturer standard production and unmodified vans, after visually inspecting and road testing vehicles, the vehicles meet the contract specifications. * For all other procurements of rolling stock,   + A resident inspector (not an employee of the manufacturer) was at the manufacturing site throughout the period of manufacture of the rolling stock to be purchased and monitored and completed a report on the manufacture of the rolling stock. The report, at a minimum shall     - Provide accurate records of all vehicle construction activities, and     - Address how the construction and operation of the vehicles fulfills the contract specifications.   + After reviewing the report, and visually inspecting and road testing the delivered vehicles meet the contract specifications. | * Not Micro Purchase * All Rolling Stock Purchases * Collect upon delivery, but before earlier of title is transferred or rolling stock put into revenue service |  |  |  |  |  |  |  |
| 4220.1F.IV.2.e.(6)  49 USC §5323(m)  49 CFR Part 663 | Post Delivery Federal Motor Vehicle Safety Standards (FMVSS) Certification   * The recipient’s certification that is has received a copy of the manufacturer's self-certification of compliance with or inapplicability of the Federal Motor Vehicle Safety Standards, required by section 319 of STURAA and 49 CFR §663 both at the pre-award and post delivery stages. | * Not Micro Purchase * All Rolling Stock Purchases * Collect upon delivery, but before earlier of title is transferred or rolling stock put into revenue service |  |  |  |  |  |  |  |
|  | **END OF CERTIFICATION CHECKLIST** | | | | | | | | |