

**Androscoggin Valley Council of Governments
Procurement Policies and Procedures**

March 2016

Androscoggin Valley Council of Governments

Procurement Policies and Procedures

1. Purpose of procurement standards. The purpose of these standards is to establish procedures for the Androscoggin Valley Council of Governments, herein and after referred to as the Corporation for the procurement of supplies and other expendable property, equipment, real property and other services.

2. Code of conduct. No employee, officer, or agent shall participate in the selection, award, or administration of a contract if a real or apparent conflict of interest would be involved. Such a conflict 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 the firm selected for an award. The officers, employees, and agents of the Corporation shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, or parties to subagreements except for where the financial interest is not substantial or the gift is an unsolicited item of nominal value. Members of the Corporation's board of directors shall comply with all relevant fiduciary duties, including those governing conflicts of interest, when they vote upon matters related to procurement contracts in which they have a direct or indirect financial or personal interest. Officers, employees, directors, and agents of the Corporation shall be subject to disciplinary actions for violations of these standards.

3. Competition. All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition. The Corporation shall be alert to organizational conflicts of interest as well as noncompetitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, invitations for bids and/or requests for proposals shall be excluded from competing for such procurements. Awards shall be made to the bidder or offeror whose bid or offer is responsive to the solicitation and is most advantageous to the Corporation, price, quality and other factors considered. Solicitations shall clearly set forth all requirements that the bidder or offeror shall fulfill in order for the bid or offer to be evaluated by the Corporation. Any and all bids or offers may be rejected when it is in the Corporation's interest to do so. In all procurement the Corporation shall avoid practices that are restrictive of competition. These include but are not limited to:

- (a) Placing unreasonable requirements on firms in order for them to qualify to do business,
- (b) Requiring unnecessary experience and excessive bonding,
- (c) Noncompetitive pricing practices between firms or between affiliated companies,
- (d) Noncompetitive awards to consultants that are on retainer contracts,
- (e) Organizational conflicts of interest,
- (f) Specifying only a brand name product instead of allowing an equal product to be offered and describing the performance of other relevant requirements of the procurement, and
- (g) Any arbitrary action in the procurement process.

4. Methods of Procurement to be Followed.

(a) Procurement by Micro-purchases. Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold as fixed at 48CFR Subpart 2.1 (currently \$3,000). To the extent practicable, the non-Federal entity must distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotations if the non-Federal entity considers the price to be reasonable.

(b) Procurement by Small Purchase Procedures. Small purchase procedures are those relatively

simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the Simplified Acquisition Threshold (48 CFR Subpart 2.1) as adjusted and currently at \$150,000. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources.

(c) Procurement by Sealed Bids (formal advertising). 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. The sealed bid method is the preferred method for procuring construction, if the conditions in paragraph (c)(1) of this section apply.

(1) In order for sealed bidding to be feasible, the following conditions should be present:

(i) A complete, adequate, and realistic specification or purchase description is available;

(ii) Two or more responsible bidders are willing and able to compete effectively for the business; and

(iii) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

(2) If sealed bids are used, the following requirements apply:

(i) Bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids, for state, local and tribal governments, the invitation for bids must be publically advertised;

(ii) 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;

(iii) 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;

(iv) A firm fixed price contract award will be made in writing 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

(v) Any or all bids may be rejected if there is a sound documented reason.

(d) Procurement by Competitive Proposals. The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

(1) Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals must be considered to the maximum extent practical.

(2) Proposals must be solicited from an adequate number of qualified sources;

(3) The non-Federal entity must have a written method for conducting technical evaluations of the proposals received and for selecting recipients;

(4) Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and

(5) The non-Federal entity must use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor 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 are a potential source to perform the proposed effort.

(e) Procurement by Noncompetitive Proposals. Procurement by non-competitive proposals is procurement through solicitation of a proposal from only one source and may be used only when one

or more of the following circumstances apply:

- (1) The item is available only from a single source;
- (2) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
- (3) The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-Federal entity; or
- (4) After solicitation of a number of sources, competition is determined inadequate.

5. Procurement procedures.

(a) All procurement by the Corporation shall comply, at a minimum, with the the requirements of subsections (i), (ii), and (iii) below:

- (i) the Corporation avoid purchasing unnecessary items.
- (ii) Where appropriate, an analysis is made of lease and purchase alternatives to determine which would be the most economical and practical procurement.
- (iii) Solicitations for goods and services provide for all of the following.
 - (A) A clear and accurate description of the technical requirements for the material, product or service to be procured. In competitive procurements, such a description shall not contain features which unduly restrict competition.
 - (B) Requirements which must be fulfill and all other factors to be used in evaluating proposal submitted in response to solicitations .
 - (C) A description, whenever practicable, of technical requirements in terms of functions to be performed or performance required, including the range of acceptable characteristics or minimum acceptable standards.
 - (D) When relevant, the specific features of "brand name or equal" descriptions that are to be included in responses submitted to solicitation.
 - (E) The acceptance, to the extent practicable and economically feasible, of products and services dimensioned in the metric system of measurement.
 - (F) Preference, to the extent practicable and economically feasible, for products and services that conserve natural resources and protect the environment and are energy efficient.

(b) All necessary affirmative steps shall be made by the Corporation to utilize small businesses, minority-owned firms, women's business enterprises, and labor surplus area firms, whenever possible. The Corporation shall take all of the following steps to further this goal.

- (i) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- (ii) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- (iii) Dividing total requirements, when economically feasible, into smaller tasks or

quantities to permit maximum participation by small and minority businesses, and women's business enterprises;

- (iv) Establishing delivery schedules, where the requirements permits, which encourage participation by small and minority businesses, and women's business enterprises;
- (v) Using the services and assistance, as appropriate, of such organizations as the Small Business Development Agency of the Department of Commerce; and
- (vi) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (i) through (v) of this section.

(c) The type of procuring instruments used (e.g., fixed price contracts, cost reimbursable contracts, purchase orders, and incentive contracts) shall be determined by the Corporation but shall be appropriate for the particular procurement and for promoting the best interest of the program or project involved. The "cost-plus-a-percentage-of- cost" or "percentage of construction cost" methods of contracting shall not be used.

(d) Contracts shall be made only with responsible contractors who possess the potential ability to perform successfully under the terms and conditions of the proposed procurement. Consideration shall be given to such matters as contractor integrity, record of past performance, financial and technical resources or accessibility to other necessary resources.

(e) Debarment and Suspension - No contract shall be made to parties listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Nonprocurement Programs in accordance with E.O.s 12549 and 12689, "Debarment and Suspension." Contractors with awards that exceed the small purchase threshold shall provide the required certification regarding its exclusion status and that of its principal employees.

6. Procurement of Transit Vehicles/Rolling Stock Special Requirements. The following Federal laws and regulations impose requirements that may affect rolling stock procurements.

(a) Accessibility. Rolling stock must comply with the accessibility requirements of DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)" [49 CFR Part 37], and Joint ATBCB/DOT regulations, "Americans with Disabilities (ADA) Accessibility Specifications for Transportation Vehicles" [36 CFR Part 1192 and 49 CFR Part 38].

(b) Transit Vehicle Manufacturer Compliance with DBE Requirements. Before a transit vehicle manufacturer (TVM) may submit a bid or proposal to provide vehicles to be financed with FTA assistance, 49 CFR Section 26.49 requires the TVM to submit a certification that it has complied with FTA's DBE requirements.

(c) Minimum Service Life. AVCOG/LATC shall 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 AVCOG/LATC may acquire.

(d) Spare Ratios. AVCOG/LATC shall not acquire an excessive number of spare vehicles not regularly used in public transportation service.

(e) 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, such as EPA regulations, "Control of Air Pollution from Mobile Sources" (40 CFR Part

85); EPA regulations, "Control of Air Pollution from New and In-Use Motor Vehicles and New and In-Use Motor Vehicle Engines" (40 CFR Part 86); and EPA regulations, "Fuel Economy of Motor Vehicles" (40 CFR Part 600).

(f) Pre-award and Post Delivery Review. Each third party contract to acquire rolling stock must include provisions to ensure compliance with applicable requirements of 49 U.S.C. § 5323(m) and FTA regulations, "Pre-Award and Post-Delivery Audits of Rolling Stock Purchases" (49 CFR Part 663), that do not conflict with 49 U.S.C. § 5323(m).

(g) Bus Testing. Each third party contract to acquire a new bus model or a bus with significant alterations to an existing model must include provisions to assure compliance with applicable requirements of FTA regulations, "Bus Testing" (49 CFR Part 665).

(h) In-State Dealers. AVCOG/LATC may not limit third party bus procurements to in-state dealers (49 U.S.C. Section 5325(i)).

(i) Basis for Contract Award. As permitted by 49 U.S.C. Section 5325(f), AVCOG/LATC may award a third party contract for rolling stock based on initial capital costs, or based on performance, standardization, life cycle costs, and other factors, or by selection through a competitive procurement process.

(j) Five-Year Limitation. AVCOG/LATC may enter into a multi-year contract to buy rolling stock with an option not exceeding five (5) years to buy additional rolling stock or replacement parts (49 U.S.C. § 5325(e)(1)). AVCOG/LATC may not exercise that option later than five (5) years after the date of its original contract.

7. **Procurement of Facilities or Land Special Requirements.** There are no proposals for this activity in the LATC three year capital investment plan. If such an activity is proposed in the future this section will be updated prior to any such procurement.
8. **Cost and price analysis.** Some form of cost or price analysis shall be made and documented in the procurement files in connection with every procurement action in excess of the Simplified Acquisition Threshold (48 CFR Subpart 2.1) as Adjusted and currently at \$150,000. Price analysis may be accomplished in various ways, including the comparison of price quotations submitted, market prices and similar indicia, together with discounts. Cost analysis is the review and evaluation of each element of cost to determine reasonableness, allocability and allowability.
9. **Procurement records** - Procurement records and files for purchases in excess of the Micro purchase threshold as fixed at 48 CFR Subpart 2.1 (currently \$3,000) shall include the following at a minimum:
 - (a) basis for contractor selection,
 - (b) justification for lack of competition when competitive bids or offers are not obtained, and
 - (c) basis for award cost or price.
10. **Contract administration.** A system for contract administration shall be maintained to ensure contractor conformance with the terms, conditions and specifications of the contract and to ensure adequate and timely follow up of all purchases. The Corporation shall evaluate contractor performance and document, as appropriate, whether contractors have met the terms, conditions and specifications of the contract.
11. **Contract provisions.** The Corporation shall include, in addition to provisions to define a sound and complete agreement, the following provisions in all contracts. The following provisions shall also be applied to subcontracts.

- (a) Contracts in excess of the Simplified Acquisition Threshold shall contain contractual provisions or conditions that allow for administrative, contractual, or legal remedies in instances in which a contractor violates or breaches the contract terms, and provide for such remedial actions as may be appropriate.
- (b) All contracts in excess of the Simplified Acquisition Threshold shall contain suitable provisions for termination by the Corporation, including the manner by which termination shall be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.
- (c) For contracts dealing with construction or facility improvements the Corporation shall comply with all requirements imposed by its funding sources (and the government regulations applicable to those funding sources) with regard to construction bid guarantees, performance bonds, and payment bonds.
- (d) All negotiated contracts (except those for less than the Simplified Acquisition Threshold) awarded by the Corporation shall include a provision to the effect that the Corporation shall have access to any books, documents, papers and records of the contractor which are directly pertinent to a specific program for the purpose of making audits, examinations, excerpts and transcriptions.
- (e) All contracts, including small purchases, awarded by the Corporation and their contractors where the source of the funds, directly or indirectly, is the federal government, shall contain the following procurement provisions as applicable.
- (i). Equal Employment Opportunity - All contracts, when funded in whole or part by monies derived from the Federal government (either directly or indirectly), shall contain a provision requiring compliance with E.O. 11246, "Equal Employment Opportunity," as amended by E.O. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."
- (ii). Copeland "Anti-Kickback" Act (18 U.S.C. 874 and 40 U.S.C. 276c) - All contracts in excess of \$2000 for construction or repair, when funded in whole or part by monies derived from the Federal government (either directly or indirectly) shall include a provision for compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874), as supplemented by Department of Labor regulations (29 CFR part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The recipient shall report all suspected or reported violations to the Federal awarding agency.
- (iii). Davis-Bacon Act, as amended (40 U.S.C. 276a to a-7) - **When required by Federal program legislation**, all construction contracts awarded by the recipients and subrecipients of more than \$2000 shall include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 276a to a-7) and as supplemented by Department of Labor regulations (29 CFR part 5, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction"). Under this Act, contractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less than once a week. The recipient shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of a contract shall be conditioned upon the acceptance of the wage determination. The recipient shall report all

suspected or reported violations to the Federal awarding agency.

(iv). Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333) - All contracts in excess of \$2000 for construction contracts and in excess of \$2500 for other contracts that involve the employment of mechanics or laborers, when funded in whole or part by monies derived from the Federal government (either directly or indirectly), shall include a provision for compliance with Sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), as supplemented by Department of Labor regulations (29 CFR part 5).

(v). Rights to Inventions Made Under a Contract or Agreement - Contracts or agreements for the performance of experimental, developmental, or research work, when funded in whole or part by monies derived from the Federal government (either directly or indirectly), shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

(vi). Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended - Contracts and subgrants of amounts in excess of \$100,000, **when funded in whole or part by monies derived from the Federal government** (either directly or indirectly), shall contain a provision that requires the recipient to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.). Violations shall be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(vii). Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) - Contracts for an amount above \$100,000, **when funded in whole or part by monies derived from the Federal government** (either directly or indirectly), shall include a certification by the contracting parties that they have not and will not use Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. and to further require disclosure of any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award.

(viii). Third party contracting requirements (FTA Circular 4220.1F) - This circular sets forth the requirements a grantee (AVCOG) must adhere to in the solicitation, award and administration of its third party contracts. Provisions of this circular will be added to all operating contracts utilizing formula funds for operating assistance.

EXHIBIT A

**REQUIRED THIRD PARTY CONTRACT CLAUSES
(excluding micro-purchases, except for construction contracts over \$2,000)**

REQUIREMENT	COMMENTS	MASTER AGREEMENT REFERENCE (2016)
All FTA-Assisted Third Party Contracts and Subcontracts		
No Federal government obligations to third parties by use of a disclaimer		§2.m
Program fraud and false or fraudulent statements and related acts		§3.f
Access to Records		§10.a
Federal changes		§2.g
Civil Rights (EEO, Title VI & ADA)		§13
Incorporation of FTA Terms	Per FTA C. 4220.1F	§17.a
Energy Conservation		§30
Awards Exceeding \$10,000		
Termination provisions	49 CFR Part 18 Not required of states	§12
Awards Exceeding \$25,000		
Debarment and Suspension	2 CFR Parts 180 and 1200	§3.b
Awards Exceeding the Simplified Acquisition Threshold (\$100,000 – see Note)		
Buy America	When tangible property or construction will be acquired	§16.a
Provisions for resolution of disputes, breaches, or other litigation		§44
Awards Exceeding \$100,000 by Statute		
Lobbying		§3.d
Clean Air		§17.n
Clean Water		§17.n
Transport of Property or Persons		
Cargo Preference	When acquiring property suitable for shipment by ocean vessel	§16.b
Fly America	When property or persons transported by air between U.S. and foreign destinations, or between foreign locations	§16.c
Construction Activities		
Davis Bacon Act	Except for contracts <\$2,000 or third party contracts for supplies, materials, or articles ordinarily available on the open market	§28.a

EXHIBIT A

**REQUIRED THIRD PARTY CONTRACT CLAUSES
(excluding micro-purchases, except for construction contracts over \$2,000)**

REQUIREMENT	COMMENTS	MASTER AGREEMENT REFERENCE (2016)
Copeland Anti-Kickback Act Section 1 Section 2	All Contracts >\$2,000	§28.a
Contract Work Hours & Safety Standards Act	Contracts >\$100,000	§28.a
Bonding for construction activities exceeding \$100,000	5% bid guarantee; 100% performance bond; and Payment bond equal to: • 50% for contracts < \$1 M • 40% for contracts > \$1 M, but < \$5 M • \$2.5 M for contracts > \$5 M Not required of states	§17.q
Seismic Safety	Contracts for construction of new buildings or additions to existing buildings	§26.b
Special DOL Clause	Contracts >\$10,000	§13.c(3)
Nonconstruction Activities		
Nonconstruction Employee Protection (Contract Work Hours and Safety Standards Act)	Applicable to all turnkey, rolling stock and operational contracts (excluding contracts for transportation services) > \$100,000	§28.b
Transit Operations		
Transit Employee Protective Arrangements	Applies to Section 5307, 5309, 5311 and 5316 projects	§28.d
Charter Service Operations		§32
School Bus Operations		§33
Drug and Alcohol Testing	Safety sensitive functions. Applies to Section 5307, 5309 and 5311 projects	§40.b
Planning, Research, Development, and Documentation Projects		
Patent Rights		§19
Rights in Data and Copyrights		§20

EXHIBIT A

**REQUIRED THIRD PARTY CONTRACT CLAUSES
(excluding micro-purchases, except for construction contracts over \$2,000)**

Miscellaneous Special Requirements		
Disadvantaged Business Enterprises (DBEs)	Contracts awarded on the basis of a bid or proposal offering to use DBEs	§13.d
Prompt Payment and Return of Retainage	Per 49 CFR Part 26, if grantee meets the threshold for a DBE program	§13.d
Recycled Products	Contracts for items designated by EPA, when procuring \$10,000 or more per year	§17.m
ADA Access	Contracts for rolling stock or facilities construction/ renovation	§13.g
Assignability Clause	Piggyback procurements	§17.a
State Requirements		
Special Notification Requirements for States		§42

Note: On December 19, 2014, a joint interim final rule was published, implementing for all Federal award-making agencies the final guidance “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards” (commonly referred to as the “Super Circular”), which was published by the Office of Management and Budget (OMB) on December 26, 2013. The Super Circular consolidates eight existing grant-related circulars into one set of uniform regulations located in Title 2 of the CFR.

2 CFR Part 200 applies to the administration of all Federal grants, cooperative agreements, and amendments as of December 26, 2014. Procurements under grants and cooperative agreements executed prior to December 26, 2014 continue to be subject to 49 CFR Parts 18 and 19 as in effect on the date of such grants or agreements.

2 CFR Part 200 contains certain notable changes to FTA grants management. The Super Circular increases the simplified acquisition threshold to \$150,000 (per 2 CFR 200.88) to bring it in alignment with the FAR. This new threshold applies to procurements funded by grants issued on or after December 26, 2014. Procurements funded by grants issued on or before December 25, 2014, are subject to the previous simplified acquisition threshold of \$100,000 (per 18 CFR 36(d)).

Similarly, the Buy America public interest waiver exempts “small purchases” from Buy America regulations, which incorporated by reference a provision from US DOT’s Common Grant Rule (49 CFR 18.36(d)) that set that threshold at \$100,000 or less. This threshold continues to apply for all grants obligated on or before December 25, 2014. On December 26, 2014, however, US DOT’s Common Grant Rule in 49 CFR Part 18 was replaced with a new regulation, 2 CFR Part 1201, which incorporates by reference OMB’s Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Part 200), and contains a higher threshold for simplified acquisitions.

Therefore, for grants obligated on or after December 26, 2014, the threshold is raised to match the simplified acquisition threshold set by 2 CFR 200.88, which incorporates by reference the Federal Acquisition Regulation at 48 CFR 2.1 (definitions), and currently is set at \$150,000. This amount will be adjusted periodically for inflation. FTA will continue to base the exemption on the total amount of the project and not on the individual price of items being purchased. For example, if a recipient purchases ten items costing \$20,000 each under a single purchase order, the \$200,000 contract would make the procurement subject to Buy America Requirements, 49 CFR 661.7.

EXHIBIT B

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

REQUIREMENT	COMMENTS	MASTER AGREEMENT REFERENCE (2016)
Bus Testing Certification and Report	Procurements of buses and modified mass produced vans	§17.p(4)
Transit Vehicle Manufacturer Certification	Procurements of railcars or buses and modified mass produced vans	§13.d(3)
Buy America Certification	Projects >\$100,000 that contain steel, iron or manufactured products (see note)	§16.a
Pre-Award Audit	Rolling stock procurements	§17.p(3)
Pre-Award Buy America Certification	Rolling stock procurements>\$100,000 (see note)	§17.p(3)
Pre-Award Purchaser's Requirement Certification	Rolling stock procurements	§17.p(3)
Post-Delivery Audit	Rolling stock procurements	§17.p(3)
Post-Delivery Buy America Certification	Rolling stock procurements >\$100,000 (see note)	§17.p(3)
Post-Delivery Purchaser's Requirement Certification	Rolling stock procurements	§17.p(3)
On-Site Inspector's Report	Rolling stock procurements for more than 10 vehicles for areas >200,000 in population and 20 for areas <200,000 in population	§17.p(3)
Federal Motor Vehicles Safety Standards Pre-Award and Post-Delivery Certification	Non-rail rolling stock procurements	§17.p(3)
Excluded Parties Listing System search	Procurements > \$25,000	§3.b
Lobbying Certification	Procurements > \$100,000	§3.d
Standard Form LLL and Quarterly Updates (when required)	Procurements > \$100,000 where contractor engages in lobbying activities	§3.d

EXHIBIT C
OTHER REQUIRED ITEMS

REQUIREMENT	COMMENTS	FTA C. 4220.1F REFERENCES
Contract Administration System		Ch. III, §3
Record of Procurement History		Ch. III, §3.d(1)
Protest Procedures		Ch. VII, §1
Selection Procedures		Ch. III, §3d(1)(c)
Independent Cost Estimate		Ch. VI, §6
Cost/Price Analysis		Ch. VI, §6
Responsibility Determination		Ch. VI, §8.b
Justification for Noncompetitive Awards	If applicable	Ch. VI, §3.i(1)(b)
No excessive bonding requirements		Ch. VI, §2.h(1)(f)
No exclusionary specifications		Ch. VI, §2.a(4)
No geographic preferences	Except for A&E services	Ch. VI, §2.a(4)(g)
Evaluation of Options	If applicable	Ch. VI, §7.b
Exercise of Options		Ch. V, §7.a

CLAUSE	TYPE OF PROCUREMENT				
	Professional Services/A&E	Operations/ Management/ Subrecipients	Rolling Stock Purchase	Construction	Materials & Supplies
No Federal government obligations to third parties by use of a disclaimer	All	All	All	All	All
Program fraud and false or fraudulent statements and related acts	All	All	All	All	All
Access to Records	All	All	All	All	All
Federal changes	All	All	All	All	All
Civil Rights (EEO, Title VI & ADA)	All	All	All	All	All
Incorporation of FTA Terms	All	All	All	All	All
Energy Conservation	All	All	All	All	All
Termination Provisions (not required of states)	>\$10,000	>\$10,000	>\$10,000	>\$10,000	>\$10,000
Debarment and Suspension	>\$25,000	>\$25,000	>\$25,000	>\$25,000	>\$25,000
Buy America			>\$100,000 (see Note)	>\$100,000 (see Note)	>\$100,000 (for steel, iron, manufactured products)
Provisions for resolution of disputes, breaches, or other litigation	>\$100,000 (see Note)	>\$100,000 (see Note)	>\$100,000 (see Note)	>\$100,000 (see Note)	>\$100,000 (see Note)
Lobbying	>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000
Clean Air	>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000
Clean Water	>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000
Cargo Preference			Involving property that may be transported by ocean vessel	Involving property that may be transported by ocean vessel	Involving property that may be transported by ocean vessel
Fly America	Involving foreign transport or travel by air	Involving foreign transport or travel by air	Involving foreign transport or travel by air	Involving foreign transport or travel by air	Involving foreign transport or travel by air
Davis Bacon Act				>\$2,000 (including ferry vessels)	

CLAUSE	TYPE OF PROCUREMENT				
	Professional Services/A&E	Operations/ Management/ Subrecipients	Rolling Stock Purchase	Construction	Materials & Supplies
Copeland Anti-Kickback Act Section 1 Section 2				All >\$2,000 (including ferry vessels)	
Contract Work Hours & Safety Standards Act		>\$100,000	>\$100,000	>\$100,000 (including ferry vessels)	
Bonding (not required of states)				>\$100,000 (including ferry vessels)	
Seismic Safety	A&E for new buildings & additions			New buildings & additions	
Transit Employee Protective Arrangements		Transit operations funded with Section 5307, 5309, 5311 or 5316 funds			
Charter Service Operations		All			
School Bus Operations		All			
Drug and Alcohol Testing		Transit operations funded with Section 5307, 5309 or 5311 funds			
Patent Rights	Research & development				
Rights in Data and Copyrights requirements	Research & development				
Special DOL EEO clause for construction projects				>\$10,000	
Disadvantaged Business Enterprises (DBEs)	All	All	All	All	All
Prompt Payment	All if threshold for DBE program met	All if threshold for DBE program met	All if threshold for DBE program met	All if threshold for DBE program met	All if threshold for DBE program met

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