

SMALL PURCHASE DOCUMENTATION PROCEDURES

Purpose: This guidance is to help explain to a subrecipient agency what qualifies as a Small Purchase and the procedures necessary to complete for the DMT review of an FTA funded Small Purchase procurement.

SMALL PURCHASE

Purchases between \$3,000 and fewer than \$100,000 may be completed using the Small-Purchase procedures below. This threshold is established by the Federal Transit Administration (FTA); however, agencies may utilize their own established threshold based on local requirements as long as it does not exceed the federal limit. The award of small purchases must include solicited competitive quotations from an adequate number of qualified sources, typically at least three. Competitive quotations may be obtained in writing or verbally. Verbal quotes by telephone is acceptable for commercially available items while written quotations are appropriate when it is necessary to provide vendors with detailed information that cannot be conveyed orally or when pricing for specific items are needed for evaluation. Verbal quotes must be documented including: Names and address of vendor; item description; unit price; all other fees and charges; and applicable taxes.

Unlike a micro-purchase, a small purchase requires a formal Independent Cost Estimate (ICE). Ideally, an ICE should be completed before beginning a procurement request, i.e. when requesting funds for a grant application.

Before awarding a small purchase contract, the subrecipient must conduct a price or cost analysis to determine that the proposed price is fair and reasonable. Generally, a comparison of proposed prices received in response to the solicitation to each other is sufficient to establish price reasonableness. Other methods to determine price reasonableness may include:

1. Comparison of catalog or market prices;
2. Comparison of regulated prices such as utilities purchases; or
3. Comparison with recent prices for similar goods and services.

A cost analysis may be needed if:

1. There is insufficient price competition;
2. For single bid;
3. Sole source purchase including contract modification or change order; or
4. The solicitation required the submittal of specific cost elements, i.e., labor hours, overhead, materials, etc.

The issuance of a Purchase Order (PO) by the agency and its acceptance by the vendor (either through performance or signature on the PO) constitute a contract. For this reason it is crucial the PO clearly specify the item(s) or service(s) being purchased and the terms and conditions of the purchase.

All federally funded contracts must contain the required federal clauses and certifications. Incorporation of required contract clauses can be in the form of reference or as an attachment to the contract. The issuance of a PO for a small purchase should include the one-page FTA

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Contract Clauses for Small Purchase. FTA contract clauses and applicability can be found in the FTA Best Practices Procurement Manual Appendix A.1. DMT provides a contract clause matrix on its website to help subrecipients determine the appropriate clause to be included into the contract. The dollar figure on this chart signifies the applicability based on contract amount. Items marked with an X are applicable to all contracts regardless of contract amount.

- <http://www.dot.ca.gov/hq/MassTrans/Docs-Pdfs/Procurement/fta.req.clauses-01-2013.pdf>

Agencies may not break down requirements aggregating more than the small purchase threshold into multiple purchases (commonly called “bid splitting” or unbundling”) merely to permit use of the small purchase procedures or to avoid the requirements that apply to purchases above the small purchase threshold.

Procedures

Prior to award of a small purchase contract or issuing a Purchase Order the subrecipient will provide DMT with a detailed Price Analysis documenting the process used to obtain competitive quotes and the vendor selection. The following information along with supporting documentations should be included with the analysis:

1. Printed on agency letterhead.
2. Date and agency information/address.
3. Agency project manager contact information.
4. Grant program information; including the Grant Program (5310, 5311, JARC/New Freedom), Standard Agreement number, funding amount, and type of contract action (New or modification to existing contract, exercising contract option(s), etc.).
5. Project or item description.
6. Specification or statement of work that was provided to each vendor.
7. Summary of bidders including: date and name of the vendors contacted, prices and other terms and conditions quoted by each vendor.
8. Statement of how quotes were evaluated and the result of the evaluation.
9. The vendor selection.
10. Justification of how the determination was made and the selected price is fair and reasonable. If award was made to other than the low quote, justification should include the reason for the award decision other than price-related factors.
11. Name, title, and signature of the agency authorized purchasing agent.

Additional information regarding the price analysis/independent cost estimate (ICE) is available on the DMT Federal Procurement website. A sample Small Purchase price analysis may also be found on the DMT website.

- <http://www.dot.ca.gov/hq/MassTrans/Docs-Pdfs/Procurement/ice.guidance.pdf>

FEDERAL TRANSIT ADMINISTRATION (FTA) CONTRACT CLAUSES FOR SMALL PURCHASE

1. **FLY AMERICA REQUIREMENTS (49 USC 40118, 41 CFR Part 301-10)**
Requires use of U.S. Flag air carriers for U.S. Government-financed international air travel and transportation.
2. **CARGO PREFERENCE REQUIREMENTS (46 USC 1241, 46 CFR Part 381)**
Requires use of privately-owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage involved for equipment, material, or commodities.
3. **ENERGY CONSERVATION REQUIREMENTS (42 USC 6321 et seq., 49 CFR Part 18)**
Requires compliance with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.
4. **ACCESS TO RECORDS AND REPORTS (49 USC 5325, 18 CFR Part 18.36[i], 49 CFR Part 633.17)**
Requires the Contractor to provide access to books, documents, papers and records for the purpose of making audits, examinations, excerpts and transactions as it relates to this procurement.
5. **FEDERAL CHANGES (49 CFR Part 18)**
Requires compliance with FTA regulations, policies, procedures and directives, as they may be amended or promulgated during the term of the contract.
6. **RECYCLED PRODUCTS (Contracts in excess of \$10,000) (42 USC 6962, 40 CFR Part 247, Exec. Order 12873)**
Requires use of "recovered materials," in compliance with Section 6002 of the Resource Conservation and Recovery Act, as amended (42 USC 6962), including the regulatory provisions of 40 CFR Part 247 and Executive Order 12873.
7. **NO GOVERNMENT OBLIGATION TO THIRD PARTIES**
Specifies that the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the Purchaser, the Contractor, or any other party.
8. **PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS (31 USC 3801 et seq., 49 CFR Part 31, 18 USC 1001, 49 USC 5307)**
Specifies that the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to this purchase or contract and reserves to the Federal Government the right to impose penalties on the Contractor.
9. **TERMINATION (Contracts in excess of \$10,000) (49 USC 18, FTA Circular 4220.1F)**
Allows the Purchaser to terminate this contract for convenience by written notice, when it is in the Government's best interest, and allows the Purchaser to terminate this contract for default by serving a notice of termination.
10. **GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (Contracts in excess of \$25,000)**
Requires the Contractor to verify that the none of the Contractor, its principals, or affiliates are excluded or disqualified by the Federal Government, on penalty of suspension and/or debarment.
11. **CIVIL RIGHTS REQUIREMENTS (29 USC 623, 42 USC 2000, 42 USC 6102, 42 USC 12112, 42 USC 12132, 49 USC 5332, 49 USC 5332, 29 CFR Part 1630, 41 CFR Parts 60 et seq.)**
Requires non-discrimination and equal employment opportunity, and prohibits discrimination on the basis of race, color, creed, national origin, sex, age, or disabilities.
12. **DISADVANTAGED BUSINESS ENTERPRISE (DBE) (49 CFR Part 26)**
Requires compliance with U.S. Department of Transportation regulations, "Participation by Disadvantaged Enterprises in Department of Transportation Financial Assistance Programs", cooperation with regard to maximum utilization of disadvantaged business enterprises, and best efforts to ensure opportunity for disadvantaged business enterprises to compete for subcontractual work.
13. **INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS (FTA Circular 4220.1F)**
Incorporates FTA terms set forth in FTA Circular 4220.1F by reference, and specifies that all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions in this contract.
14. **DAVIS-BACON AND COPELAND ANTI-KICKBACK ACTS (Construction Contracts in excess of \$2,000)**
In accordance with 40 USC 3145(a), 29 CFR 5.2(h) and 49 CFR 18.36(i)(5) and as it applies to construction contract over \$2,000, all laborers and mechanics must be paid the full amount of wages and bona fide fringe benefits due at rates not less than those contained in the wage determination of the Secretary of Labor.