



Bis-Man Transit Board Meeting

October 24, 2024, 11:30 AM

<https://us02web.zoom.us/j/2186581052?omn=87559640999>

Call in: +1 312 626 6799; Meeting ID: 218 658 1052

Welcome & Introductions

Approval of Agenda

Consent Agenda

1. Previous Month's Minutes
 - a. Attachment A – 2024/9/26 Regular Meeting
 - b. Attachment B – 2024/10/1 Mandan Contribution Committee Meeting
 - c. Attachment C – 2024/10/4 Executive Committee Meeting
 - d. Attachment D – 2024/10/21 Finance Meeting
2. Financial Report
 - a. Attachment E
3. Ride Stats
 - a. Attachment F

Public Comment

Old Business

1. Mandan Contribution Committee Update
 - a. Attachment G

New Business

1. Replacement Cutaway Bus Recommendation
 - a. Attachment H
2. Procurement Policy Update Recommendation
 - a. Attachment I

Executive Director Report

1. Fall Project Update

Operations Report

Other Business

Adjourn

- The next Board Meeting will be held on November 21, 2024, at 11:30 am. •



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A

Bis-Man Transit delivers valued public transportation, linking people, jobs and communities.

Bis-Man Transit Board Meeting

September 26, 2024, 11:30 AM

Via Zoom & In-person at
3750 E Rosser Ave. Bismarck, ND 58501

Attending:

Lynn Wolf, President

Glenn Lauinger

Helen Baumgartner

Karel Sovak

Royce Schultze

Andrew Stromme

Commissioner Connelly

Commissioner Rohr

Not Attending:

Lacey Long, Vice President

DeNae Kautzmann, Secretary/Treasurer

Steve Heydt

Staff:

Deidre Hughes

Taylor Kitzan

Mike Mundahl

Amanda O'Brien

Tom Reisenauer

Craig Thomas

Guests:

Trevor Vannett

Susan Dingle

Paulette Jacobsen

Rachel Lukaszewski



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Meeting was called to order at 11:30 A.M.

Approval of Agenda: Karel moved to approve the Agenda. Glenn seconded the motion. Motion carried unanimously.

Consent Agenda: Karel moved to approve the Consent Agenda. Glenn seconded the motion. Motion carried unanimously.

1. Previous Month's Minutes
 - a. 2024/8/22 Regular Meeting
 - b. 2024/9/24 Finance Meeting
 - c. 2024/9/24 CTIC Meeting

2. Financial Report

3. Ride Stats

Public Comment: Susan commented that she is excited for Measure 1 to be on the ballot and would like there to be discussion about how to promote the measure for the election.

Old Business

1. Measure One Update: Deidre explained that Measure 1 will be on the ballot in Bismarck. There is a landing page on the website that includes a video she created on Measure 1 along with other information and ballot language on the measure. There has been media coverage on the measure already and Deidre attended "Talk of the Town" radio segment that will air tomorrow. Lynn opened discussion for ideas to promote the measure. Karel answered that in the past there had been Town Hall meetings at the library to invite the public to talk and ask questions and asked if something similar had been scheduled. Deidre answered that she can schedule a meeting for the public in October. Andrew answered to get in touch with Catherine at the Chamber to get more information to present the measure to the league of women voters. Deidre thanked Susan for personally ordering one hundred yard signs and asked any Board members to get in touch with her if they would like one. Commissioner Rohr asked what language differed between Mandan Measure 1 and Bismarck Measure 1. Deidre answered that the Bismarck Measure 1 doesn't include accessibility about City Hall and instead to cover the administrative costs associated with the Burleigh Morton County Detention Center.
2. Mandan Contribution Discussion: Deidre discussed the contribution Mandan has provided historically. This contribution has been 18%-20% short of direct expenses. The contribution made by the City of Mandan is not enough to provide the current level of service. Commissioner Rohr asked if the statistics were based off population or other factors. Deidre



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answered that the calculations came from ridership. Andrew commented that he believes that the revenue will exceed the shortage and asked Deidre what the dollar amount of the shortage is. Deidre answered that the shortage is approximately \$350,000.00. Glenn commented that it is approximately \$920,000.00 in direct and indirect costs to service the City of Mandan. Deidre expressed interest in having a temporary committee formed to meet with City of Mandan employees and officials to have conversations moving forward about contribution funds. Glenn, Andrew, and Helen volunteered to be on the committee.

New Business

1. Free Ride Day Recommendation - *November 5th*: Deidre explained that Transit has offered Free Ride Day on election days in the past and it has been successful. Staff recommends approval for Free Ride Day on election day November 5th. Glenn moved to approve Free Ride day on election day November 5th. Karel seconded the motion. Motion carried unanimously.
2. Stuff the Bus Discussion: Deidre discussed that Ministry on the Margins asked to be the recipient of Stuff the Bus this year. Ministry on the Margins is looking to have non-perishable food items and hygiene products donated. Deidre commented that Craig wanted to have a bus at a Family Fare location to collect donations, if staff allowed, and encouraged Board members to also volunteer. Deidre will provide a detailed list of donations as the event gets closer. Staff recommends approval of Stuff the Bus to be December 9th – 13th for Ministry on the Margins. Andrew moved to approve the Stuff the Bus event. Karel seconded the motion. Motion carried unanimously.
3. Concrete Repair Project Update: Deidre explained that the City of Bismarck Engineering RFP cutoff for the Concrete Repair Project is tomorrow and that an Executive Committee meeting will need to be held early next week so the project can be completed this year. This project was originally supposed to be reimbursed from a 5339 grant, but the FTA denied the project. A budget amendment was made to the preventative maintenance portion of the 5307 grant and this \$50,000 project will be covered at an 80/20 split.

Executive Director Report

1. CAT Ridership: Deidre discussed that there were 11,976 trips made on CAT in August. This is the highest since 2016. Total ridership was 19,174 for the month of August. Deidre explained that it's important to communicate to the community that public transportation is needed. Blue route had an increase in ridership and Black route is the highest performing route.
2. Outreach Update: Deidre explained that in August, Mike attended the BSC Welcome Fair and led training for the DD Council. In September, Mike attended the U-Mary Community Fair, United Tribes Career Fair, and had the opportunity to provide CAT travel training to the



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United Way Homeless Shelter after making a contact from the DD Council training. Another DD Council training was conducted this past week.

3. Advertising Update: Deidre discussed that as of September, advertising revenue is \$94,924.00. The Bismarck Airport is doing a five-year advertising contract on CAT Bus 2401. There are six open benches currently, most being new locations.

Operations Report: This month we added 2 more Paratransit Operators to our team, bringing us to a total of 24 Paratransit Operators. We have been able to better accommodate trip requests and increase ride productivity with the addition of these operators. We lost 2 drivers on Fixed Route, 1 due to relocating, and 1 due to other employment, however, one of these operators will continue employment with us seasonally. There are some drivers wanting more hours, so these losses have not negatively impacted Fixed Route. On September 20th, we had an all employee end of summer cookout here at the office, where drivers and staff enjoyed lunch and fellowship. We look forward to having more events this fall!

Other Business: Glenn commented that Transit has received 5307 reimbursement checks, so the \$800,000.00 deficit is actually a \$400,000.00 surplus. Transit should be able to achieve a balanced budget, which is a big accomplishment.

Deidre explained that historically there has been an issue with trip denials. She has worked with operations on how to improve this and there are no more trip denials. On-time performance has also improved.

Andrew moved to adjourn the meeting. Glenn seconded the motion. Motion carried unanimously.

Meeting adjourned at 12:22 P.M.



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B

Bis-Man Transit delivers valued public transportation, linking people, jobs and communities.

Bis-Man Transit Mandan Contribution Committee Meeting Minutes

October 1, 2024, 10:00 A.M.
Via Zoom

Attending:

Glenn Lauinger

Helen Baumgartner

Andrew Stromme

Staff:

Deidre Hughes

Taylor Kitzan



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Meeting called to order at 10:00 A.M.

Deidre explained the Estimated Cost of Service for the City of Mandan. Glenn commented that using 2024 operation costs would be a better to use versus 2023, due to the operations contract amount and 5307 federal funding increase. Deidre will work on those updated numbers and send to Glenn for review. Discussion was had about how to approach the funding conversation with the City of Mandan on how public transportation is needed in the community and how to maintain the current level of service. Helen asked if HIT trips can be limited to open up more rides to the general public. Deidre answered that Transit cannot limit that service in that way. It was suggested to have a representative from the MPO, Jim Neubauer, Mayor Frohlich, Commissioner Rohr, and Greg Welch to speak to the committee. Andrew asked if Transit would request the 2024 Non-ADA Contribution from the City of Mandan General Fund. Deidre answered no, that Transit would only be requesting the sales tax contribution. Andrew commented that he should be a representative of the City of Mandan staff for future meetings and not be on the committee. Deidre agreed and thanked Andrew for his feedback.

Meeting adjourned at 10:35 A.M.



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C

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Bis-Man Transit Executive Committee Meeting Minutes

October 1, 2024, 10:00 A.M.
Via Zoom

Attending:

Lynn Wolf, President

Lacey Long, Vice President

Karel Sovak

Not Attending:

DeNae Kautzmann, Secretary/Treasurer

Staff:

Deidre Hughes

Taylor Kitzan



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Meeting called to order at 11:00 A.M.

Deidre explained that the parking lot concrete repair project is being overseen by the City of Bismarck Engineering Department. An RFP was created and only one bid response was received from Ti-Zack Concrete, LLC for \$43,329.73. This amount came in under budget and staff recommends approval of the bid. Karel moved to approve the bid. Lacey seconded the motion. Motion carried unanimously.

Meeting adjourned at 11:02 A.M.



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D

Bis-Man Transit delivers valued public transportation, linking people, jobs and communities.

Bis-Man Transit Finance Committee Meeting Minutes

September 24, 2024, 12:00 P.M.
Via Zoom

Attending:

DeNae Kautzmann, Chair

Lynn Wolf

Glenn Lauinger

Staff:

Deidre Hughes



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Meeting was called to order at 2:58 pm.

Deidre shared that the Mandan Contribution Committee of Andrew, Helen, and Glenn had met. Andrew withdrew from the committee since he will be working with the City on the issue. DeNae volunteered to take his place. Deidre stated she emailed Jim Neubauer requesting a meeting and identifying the participants. She discussed a review of ridership in Mandan, costs versus income from Mandan, and budget projections. We receive approximately half of what it costs to provide transportation in Mandan. Glenn pointed out that the sales tax revenue would be short approximately \$200,000 if a second route is added.

The grant money received for the cutaway buses is enough, so our share is only 15%.

The 1801 grant is slightly short (\$219), as that bus will be built as a flex bus, which can be used on paratransit or CAT bus. This bus is approximately \$15,000 more but may provide a solution if we don't need the bigger, more expensive buses for CAT. This trial would not set us back as the bus can be solely used for paratransit. DOT has approved it. The committee recommends the Board order the buses.

The budget discussion will be moved to November because the Administrative Committee has not met and because we just received notice that we can submit for 5310 and 5359 grants, and we are getting the numbers together. DeNae requested that Lynn contact Steve, Karel, and Royce relative to getting the Administrative Committee decision done by the first week in November so that we can act on the budget at the November board meeting.

Deidre shared that the CAT bus price has increased by \$200,000. She will be applying for a supplemental grant to cover the increase.

Meeting adjourned at 3:20 pm.



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September 2024

MONTHLY REPORT

	Month	YTD	PY Month	PY YTD	% INC/DEC OVR PYM	% INC/DEC OVR PYTD	
RIDERSHIP							
FIXED ROUTE	11,157	86,209	8,900	72,469	25.36%	18.96%	
PARATRANSIT	7,287	66,623	6,686	66,897	8.99%	-0.41%	
Total	18,444	152,832	15,586	139,366	18.34%	9.66%	
FR AVG. DAILY BOARDINGS	464.88						
DR AVG. DAILY BOARDINGS	242.90						
			Pass./Hour	Pass./Hour	Pass./Hour		
REVENUE HOURS	Month	YTD	Month	YTD	PY YTD	PY YTD	% INC/DEC OVR PYTD
FIXED ROUTE	1,703.50	16,362.38	6.55	5.27	4.63	15,646.9	4.57%
PARATRANSIT	2,946.08	24,479.79	2.47	2.72	2.83	23,649.6	3.51%
Total	4,649.58	40,842.17	3.97	3.74	3.5	39,296.6	
			Pass./Mile	Pass./Mile			
REVENUE MILES	Month	YTD	Month	YTD	PY YTD		% INC/DEC OVR PYTD
FIXED ROUTE	26,942	260,444	0.41	0.33	251,169		3.69%
PARATRANSIT	38,461	338,557	0.19	0.20	327,646		3.33%
Total	65,403.29	599,000.83	0.60	0.53	578,815		3.49%
ON TIME PERFORMANCE	Month	YTD	PY Month	PY YTD	% INC/DEC OVR PYM		% INC/DEC OVR PYTD
FIXED ROUTE	82.48%	86.93%	*NA	85.00%			2.27%
PARATRANSIT	95.01%	93.07%	83.04%	92.44%	14.41%		0.68%
*Started using Passio Sept. 2023 - Fixed Route OTP unavailable							
RIDERSHIP PER ROUTE							% INC/DEC
ROUTE	Month	YTD		PY Month			0.28212574
BLACK	2427	19872		1941			25.0%
BLUE	1403	8568		530			164.7%
GREEN	2225	16520		1968			13.1%
RED	1463	10731		1010			44.9%
ORANGE	1990	16553		1950			2.1%
PURPLE	1649	13965		1501			9.9%
RIDERSHIP BY DESTINATION	Month	YTD		PY Month			
(Included in 'Ridership Per Route' Numbers)	U-Mary	354	2536		341		3.8%
	UTTC	45	526		95		-52.6%
	Bismarck Library	601	4159		306		96.4%
	Mandan Walmart	142	1111		111		27.9%
	Mandan Family Fare	541	4667		410		32.0%
ACCIDENTS	Month	Month at Fault	YTD	YTD at Fault			
FIXED ROUTE	0	0	5	4			
PARATRANSIT	1	1	10	7			
SERVICE VEHICLE	0	0	0	0			
SENT TO INSURANCE	0		5				
COMPLAINTS	Month	YTD					
FIXED ROUTE	5	12					
PARATRANSIT	1	10					
Office Staff	0	1					
COMPLIMENTS	Month	YTD					
FIXED ROUTE	1	3					
PARATRANSIT	0	2					
Office Staff	0	0					

G

Bis-Man Transit Funding Discussion



Agenda

- Ridership Overview
- Current Funding
- 2024 Budgetary Projections

Ridership Overview

Paratransit Ridership					
	Mandan	Bismarck	Total	Mandan % of Total	Bismarck/Lincoln % of Total
2021	21321	64882	86203	24.73%	75.27%
2022	23876	66584	90460	26.39%	73.61%
2023	22688	65063	87751	25.85%	74.15%
2024*	18116	48508	66624	27.19%	72.81%

* Through September 30

CAT Ridership					
	Mandan	Bismarck	Total	Mandan % of Total	Bismarck % of Total
2021	7773	49362	57135	13.60%	86.40%
2022	7860	66736	74596	10.54%	89.46%
2023	9674	90862	100536	9.62%	90.38%
2024*	8726	77048	85774	10.17%	89.83%

* Through September 30

Current Funding

2024 Funding Breakdown

Mandan (2 Mills)	\$ 246,723.00
Bismarck (3 Mills)	\$ 1,508,715.00
Bismarck: Non-ADA Contribution	\$ 230,335.00

Other Funding

- Urbanized Area Formula Grant 5307
- Enhanced Mobility of Seniors & Individuals with Disabilities 5310 (competitive)
- State Aid
- Advertising, Fare Revenue, Lease Contracts

2024 Budgetary Projections – Bismarck

2024 Estimated Cost of Service - Bismarck	
Contractor Cost January - September Fixed Route	\$ 1,177,888.18
Percentage of total CAT service allocated to Bismarck	83%
(5 Bismarck Routes/ 1 Mandan Route)	\$ 977,647.19
Contractor Cost January - September Para	\$ 1,766,832.27
Percentage of total Para service allocated to Bismarck	73%
(48,508 Bismarck Rides/ 18,116 Mandan Rides)	\$ 1,289,787.56
Fixed Route Fuel Cost January - September	\$ 147,683.20
83% of Total	\$ 122,577.06
Paratransit Fuel Cost January - September	\$ 177,706.20
73% of Total	\$ 129,725.53
Estimated Contractor Costs October - December	\$ 755,811.58
Estimated Fuel Cost October - December	\$ 84,100.86
Estimated 2024 Direct Costs	\$ 3,359,649.80

Indirect Costs (Staff/Insurance/Utilities/Facility, Etc.)	
Budgeted Cost	\$ 900,000.00
Estimated Bismarck Share	80%
Estimated Indirect Costs for Bismarck	\$ 720,000.00
Total Direct and Indirect Costs for Bismarck	\$ 4,079,649.80
Minus Fares Collected (Estimated)	(\$272,998.35)
Total Estimated Direct and Indirect Cost for Bismarck Less Fares	\$ 3,806,651.45
Less FTA Section 5307 Funds	\$ (1,641,482.35)
Vehicle and Other Capital Asset Match Required FY24	\$200,000.00
Estimated Bismarck Share @ 80%	\$ 160,000.00
Estimated Yearly Bismarck Service Cost	\$ 2,325,169.10
Estimated Yearly Bismarck Service Cost Less Current Contribution	\$499,779.10

2024 Budget Projections - Mandan

2024 Estimated Cost of Service - Mandan	
Contractor Cost January - September Fixed Route	\$ 1,177,888.18
Percentage of total CAT service allocated to Mandan (5 Bismarck Routes/ 1 Mandan Route)	17% \$ 200,240.99
Contractor Cost January - September Para	\$ 1,766,832.27
Percentage of total Para service allocated to Mandan (48,508 Bismarck Rides/ 18,116 Mandan Rides)	27% \$ 477,044.71
Fixed Route Fuel Cost January - September	\$ 147,683.20
17% of Total	\$ 25,106.14
Paratransit Fuel Cost January - September	\$ 177,706.20
27% of Total	\$ 47,980.67
Estimated Contractor Costs October - December	\$ 225,761.90
Estimated Fuel Cost October - December	\$ 24,362.27
Estimated 2024 Direct Costs	\$ 1,000,496.69

Indirect Costs (Staff/Insurance/Utilities/Facility, Etc.)	
Budgeted Cost	\$ 900,000.00
Estimated Mandan Share	20%
Estimated Indirect Costs for Mandan	\$ 180,000.00
Total Direct and Indirect Costs for Mandan	\$ 1,180,496.70
Minus Fares Collected (Estimated)	(\$62,075.27)
Total Estimated Direct and Indirect Cost for Mandan Less Fares	\$ 1,118,421.43
Less FTA Section 5307 Funds	\$ (484,716.65)
Vehicle and Other Capital Asset Match Required FY24	\$ 200,000.00
Estimated Mandan Share @ 20%	\$ 40,000.00
Estimated Yearly Mandan Service Cost	\$ 673,704.78
Estimated Yearly Mandan Service Cost Minus Current Contribution	\$ 426,981.78



H

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October 24, 2024

TO: Bis-Man Transit Board of Directors
FROM: Deidre Hughes, Executive Director
SUBJECT: Paratransit Bus Purchase Recommendation

RECOMMENDATION: Staff recommends Bis-Man Transit Board approve the purchase of four paratransit cutaway buses to replace buses 1801, 1802, 1803, and 1804. Once all approvals are received (Bis-Man Transit Board, Bismarck City Commission, and North Dakota Department of Transportation), it is anticipated that the buses will arrive in early summer 2025. The existing fleet will remain in service until this time.

BACKGROUND: Bis-Man Transit received FY25 5310 and FY25 5339 grant funding to replace buses 1801, 1802, 1803, and 1804 at the 85/15 split. A small portion of the 1801's replacement bus (\$219) will be coverage by local match as it is outside the approved grant amount (\$173,146).

DISCUSSION: The buses will be purchased from the State of North Dakota bid for fourteen passenger cutaway buses. The factory lead time for these vehicles is estimated at five to seven months through Davey Coach Sales, LLC. The proposed vehicles do not require a CDL to operate.

Three bus purchases will be similar builds to cutaways ordered in September 2023. One bus will be equipped with a bike rack, head sign marque, and other equipment necessary to run on both the fixed route and paratransit.

FINANCIAL IMPACT: All four buses will be purchased for \$665,691.00. The federal portion will be \$565,618.00, with a local match of \$100,073.00. This will be added to the 2025 budget.

Cutaway Replacement						
	Acquisition Date	VIN #	Mileage	Federal	Local	Total
1801	6/1/2018	1FDFE4FS8JDC01484	206,697	\$ 147,141	\$ 26,224	\$ 173,365
1802	6/1/2018	1FDFE4FS8JDC01486	181,911	\$ 139,492	\$ 24,616	\$ 164,109
1803	6/1/2018	1FDFE4FS7JDC04201	215,158	\$ 139,492	\$ 24,616	\$ 164,109
1804	6/1/2018	1FDFE4FS7JDC04209	208,106	\$ 139,492	\$ 24,616	\$ 164,109
			Total	\$ 565,618	\$ 100,073	\$ 665,691



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October 24, 2024

TO: Bis-Man Transit Board of Directors

FROM: Deidre Hughes, Executive Director

SUBJECT: 2024 Procurement Policy Update

BACKGROUND: The current Procurement Policy was put in place in February 2024.

DISCUSSION: The North Dakota Department of Transportation has revised the procurement requirements, including several checklists that will be reviewed during compliance reviews. The updated forms are in the procurement policy on pages 81-94.

RECOMMENDATION: Bis-Man Transit staff recommends acceptance of the proposed Procurement Policy with the NDDOT-provided checklist form requirements.



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2024

Bis-Man Transit Board

Procurement Policy and Procedures

EFFECTIVE OCTOBER 24, 2024

BIS-MAN TRANSIT BOARD | 3750 East Rosser Ave, Bismarck, ND

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***Duties and responsibilities attributed to departments and positions not currently utilized by Bis-Man Transit will be the responsibility of the Executive Director or designee.**

1.0 PURPOSE AND INTRODUCTION

Objective

The purpose of this Bis-Man Transit Board (hereinafter “Bis-Man Transit”) Procurement Manual is to define the basic policies and procedures for the procurement of, accounting for, and disposal of Bis-Man Transit materials, equipment, buses, other vehicles, and facilities; and the procurement and administration of professional services and other services required by Bis-Man Transit. The Procurement Manual specifies policy and procedure for all Bis-Man Transit individuals involved in the procurement process.

Bis-Man Transit policies and procedures are established in order to:

1. Maximize the value received for Bis-Man Transit expenditure of public funds,
2. Protect assets purchased with public funds and ensure their application in Bis-Man Transit interest,
3. Provide a timely, efficient, and cost-effective flow of resources necessary to support Bis-Man Transit’s provision of service, and
4. Protect the integrity of Bis-Man Transit procurement process and protect the reputations of Bis-Man Transit, its officers, and its employees.

1.1 General Procurement Standards

1.2 Competition

It is the policy of Bis-Man Transit all procurement transactions be conducted in a manner intended to maximize full and open competition. Bis-Man Transit will only make awards to responsive and responsible bidders. A responsive offer is one that complies with all material requirements of the solicitation. A responsible bidder is one possessing the technical, physical, financial and ethical capacity to successfully perform a specific contract.

In implementing this standard, staff members are expected to be aggressive in identifying potential vendors for each procurement. If appropriate, each procurement expected to cost above the small purchase threshold shall be advertised in local, and, as appropriate, regional, national and trade publications, and known vendors will be directly informed of the project and encouraged to respond to the solicitation. In addition, each competitive procurement above the small purchase threshold shall be posted on the Bis-Man Transit website. The advertisement and notice shall provide the solicitation number and title, the date of any pre-bid or pre-proposal conference, and the date and time for receipt of responses to the solicitation.

Advertisements and notices shall be issued at the beginning of the solicitation period or as soon thereafter as practicable (e.g. to accommodate the advertising schedules of publications). For procurements below the small purchase threshold, formal advertising is not required, but may be used if appropriate.

1.3 Standards of Conduct

Bis-Man Transit shall maintain this written standard of conduct governing the performance of employees, officers, agents related to the solicitation, award and administration of contracts, conforming to applicable laws and regulations, including but not limited to FTA Circular 4220.1F, as they may be amended from time to time.

1.4 Economic Purchasing

Proposed procurements will be reviewed to avoid duplicative or repetitive purchases to the greatest extent feasible and consistent with good procurement practices. Consideration should be given to consolidating or breaking out procurements to obtain more economic pricing. Where appropriate, analysis will be made of lease versus purchase alternatives or any other appropriate methodology to determine the most economical approach.

1.5 Specifications

All solicitations shall incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such descriptions shall not, in competitive procurements, contain features that unduly restrict competition. The description may include a statement of the qualitative nature of the material, product, or service to be acquired. Whenever practical, requirements will be described in terms of functions to be performed or level of performance required, including the range of acceptable characteristics or minimum acceptable standards. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equal" description may be used as a means to define the performance; however, when this method is used, the specification must set forth the salient characteristics that the product must meet, and vendors will be allowed to offer "equal" products meeting the salient characteristics. Specifications for bid solicitations, whether by small purchase or formal procurement, shall be sufficiently detailed to ensure that bidders may submit pricing on an "apples to apples" basis. Specifications or scopes of services for negotiated procurements may be more general and accommodate the possibility of alternative solutions or products.

1.6 Contract Administration

Bis-Man Transit will maintain a contract administration system designed to ensure conformance by all parties with the terms, conditions, and specifications of their contracts.

1.7 Records

Bis-Man Transit shall maintain records detailing the history of procurement in a manner consistent with the size, complexity and cost of the contract.

At a minimum, these records shall include:

- (a) The rationale for the method of the procurement
- (b) Selection of the contract type
- (c) Reasons for contractor selection or rejection

- (d) The basis for the contract price
- (e) Independent Cost Estimate

1.8 Contract Period

The period of contract performance for rolling stock and replacement parts shall not exceed five years, inclusive of options, as defined in FTA C 4220.1F. The length of all other contracts shall be based upon sound business judgment, including consideration of issues such as the nature of the item being purchased, the need to afford the contractor a reasonable opportunity to recapture any start-up costs, the need to afford competing vendors the opportunity to do business with Bis-Man Transit, and the relative benefit to Bis-Man Transit of a longer or shorter contract term.

1.9 Use of Existing Contracts

1.9.1 Federal and State Contracts

Bis-Man Transit may consider and pursue, in the interest of economy and efficiency, the use of Federal, State and local intergovernmental agreements for procurements, agreements for the use of common goods and services, or the use of federal or state excess and surplus property, when it is in the interest of Bis-Man to do so and complies with Federal Transit Administration and North Dakota Department of Transportation requirements and guidelines.

1.9.2 Exercising Options in Other Agency Contracts

The term “piggybacking” is often used to describe one transit agency using the existing contract of another transit agency when the awarding agency contract did not originally envision its use by the piggybacking agency. A number of FTA requirements must be met before such a contract may be used. FTA requires the existing contract contain an assignability clause and all required FTA contract clauses and certifications; these clauses cannot be added by Bis-Man Transit as part of its use of the existing contract. All quantities acquired by assigned contract rights must be within the original contract quantities (including options) and acquired within the term of the existing contract. Bis-Man Transit must determine the agency with the contract complied with all FTA requirements relating to competition and performance of a cost or price analysis. Bis-Man must also perform its own cost or price analysis to determine the prices it will pay are fair and reasonable. Bis-Man Transit Staff will obtain all appropriate documentation from the original awarding agency are retained in the procurement file for each acquisition. Piggybacking should not be confused with a joint acquisition, where Bis-Man is a named party in the original solicitation.

1.9.3 Types of Options

Generally, there are three types of options which may be included in a solicitation:

- (a) Options for additional quantities may be utilized when Bis-Man Transit anticipates that quantities of the same goods or services beyond those specified may be

required within the time period of the contract, conditioned upon unsecured funding or potential future events. The additional quantities should be clearly specified and, to the extent reasonably feasible, the time frame identified. Cost factors such as escalation or quantity discounts should be considered in evaluating the price reasonableness of such options.

- (b) Options for additional time periods are often used in annual service contracts, where Bis-Man Transit desires the ability to continue with a contract beyond the base term of the contract, conditioned upon satisfactory performance by the contractor. The total of the option periods should not exceed a reasonable period for the services required, and options cannot be used to perpetuate a contract with one contractor to the detriment of reasonable competition. Factors such as escalation and the economic value of prior experience should be considered in evaluating the price reasonableness of such options.
- (c) Options for additional or alternative types of goods or services may be used where Bis-Man Transit wishes items beyond its estimated capacity to fund the contract (such as a higher quality of product) or where a future set of services may be needed depending upon the results of the initial contract scope (such as in preliminary feasibility or design contracts).

In developing options for a solicitation, Bis-Man Transit and the technical participants must consider the benefits and drawbacks of a new solicitation for the optional items, the impact on competition, and the feasibility of obtaining reasonably accurate pricing.

1.10 Protests

1.10.1 Policy

Bis-Man Transit policy requires all prospective contractors be accorded fair and equal consideration in the solicitation and award of contracts. To that end, any interested party shall have the right to protest alleged inequities in the procurement process and to have its issues heard, evaluated and resolved administratively. "Interested party" is defined as an actual or prospective bidder whose direct economic interest would be affected by the award of a contract or by failure to award a contract.

1.10.2 Submittal Procedures

An interested party wishing to protest a matter involving a proposed procurement or contract award shall file a written submission with Bis-Man Transit by certified mail or other delivery method by which receipt can be verified. Electronic submission of protests will not be accepted.

The protest shall include, at a minimum:

- (a) The name and address of the protesting party and its relationship to the procurement sufficient to establish the protest is being filed by an interested party;

- (b) Identity of the contact person for the protestor, including name, title, address, telephone, fax and email addresses. If the contact point is a third party representing the protester, the same information must be provided, plus a statement defining the relationship between the protester and the third party.
- (c) Identification of the procurement;
- (d) A description of the nature of the protest, referencing the portion(s) of the solicitation involved;
- (e) Identification of the provision(s) of any law, regulation, or other governance upon which the protest is based;
- (f) A complete discussion of the basis for the protest, including all supporting facts, documents or data; and
- (g) A statement of the specific relief requested.
- (h) A notarized affirmation by the protestor (if an individual) or by an owner or officer of the protestor (if not an individual) as to the truth and accuracy of the statements made in the protest submittal.

The protestor is solely responsible for the completeness and validity of the information provided. Any documents relevant to the protest should be attached to the written submission. Documents which are readily available on the Internet may be referenced to an appropriate link.

Protests shall be submitted in accordance with the requirements of this chapter and any directions included in the solicitation, and shall be addressed to Bis-Man Transit. Bis-Man Transit may decide a protest solely upon the written submission. The protest submission should therefore include all materials necessary to support the protester's position. Additional or supplemental materials may only be submitted at the request of, or with the permission of, Bis-Man Transit. If the procurement uses federal funds, an informal notice of receipt of a protest must be given to the appropriate regional office of the Federal Transit Administration (FTA). The form of notice may be specified by the regional office.

1.10.3 Protests of the Solicitation Process

A protest related to the technical scope or specification, terms, conditions, or form of a solicitation must be received no later than ten (10) working days prior to the date established for opening of bids or receipt of proposals; if the protest addresses an amendment to the solicitation, it must be received no later than ten (10) working days prior to the date established for opening bids or receipt of proposals or five (5) working days after the date of issuance of the amendment, whichever is later; in no event, however, may a protest of this nature be submitted after bids or proposals are received. The protest must conform in all respects to the requirements set forth in Section 1.10.2 above. Upon receipt of such a protest, Bis-Man Transit shall notify all prospective procurement bidders and other known interested parties of the receipt and nature of the

protest, and shall post a notice of the protest on Bis-Man Transit web page. Unless Bis-Man Transit determines that delay will be prejudicial to the interest of Bis-Man Transit or that the protest patently lacks substantial merit, the solicitation process will be extended pending resolution of the protest. Protests will be considered and either denied or sustained, in part or in whole, by Bis-Man Transit in writing. A written decision specifying the grounds for sustaining all or part of or denying the protest will be transmitted to the protestor prior to the receipt of bids or proposals in a manner that provides verification of receipt. A notice of the decision shall be provided to all parties given notice of the protest, and posted to Bis-Man Transit's procurement web page. Should the protest be upheld in whole or in substantial part, the contracting officer may either (1) amend the solicitation to correct the document or process accordingly; or (2) cancel the solicitation in its entirety. If the solicitation is amended, the time for receipt of bids or proposals shall be equitably extended to permit all participants to revise their bids or proposals to reflect the decision. If the protest is denied, the solicitation shall proceed as if the protest had not been filed, unless the protester pursues its protest with the Federal Transit Administration (FTA) as defined below, or otherwise appeals the decision of Bis-Man Transit, as defined below. Protests received by Bis-Man Transit after the time periods specified above shall be considered untimely and may be denied on that basis unless Bis-Man Transit concludes that the issue(s) raised by the protest involves substantial prejudice to the integrity of the procurement process.

1.10.4 Protests of the Evaluation Process

All bidders/proposers will be notified of the recommended award, upon a determination by Bis-Man Transit staff of a recommendation to be made to the Board of Directors, as appropriate. This notice will be transmitted to each proposer at the address contained in its proposal form, and shall be posted on the procurement page of the Bis-Man Transit website. Transmittal may be by electronic means or by hard copy. Any proposer whose proposal is valid at the time of the staff determination may protest the recommended award on one or more of the following grounds:

- (a) That the recommended award does not meet the requirements of the solicitation;
- (b) That the bid or proposal recommended for acceptance does not meet the criteria of the solicitation for award;
- (c) That the evaluation process conducted by Bis-Man Transit is improper, illegal, or the decision to recommend award is arbitrary and capricious. The protest must be received by Bis-Man Transit at the address specified in the solicitation, no later than five (5) working days after the date such notification is publicly posted or sent to the bidder or proposer, whichever is earlier. A written decision stating the grounds for allowing or denying the protest will be transmitted to the protestor and the proposer recommended for award in a manner that provides verification of receipt. Such decision shall be final, except as provided in § 1.10.5 below or by applicable law or regulation. Upon receipt of a protest of this type, Bis-Man Transit shall notify all bidders and any other known interested parties of the receipt and nature of the protest and request an extension of the validity period of

their offers, if appropriate. Unless the Executive Director determines that delay will be prejudicial to the interest of Bis-Man Transit or that the protest lacks substantial merit, award will be withheld pending disposition of the protest. Should one or more bidders refuse a requested extension of the validity of an offer, Bis-Man Transit may reject such proposal unless it is determined that the protest can reasonably be resolved and the award process continued without need for such extension. Delay in an award shall be considered prejudicial to Bis-Man if:

1. The equipment, supplies or services are urgently required; or
2. Failure to make a prompt award will economically or operationally damage Bis-Man Transit. Should the protest be upheld in whole or in substantial part, Bis-Man Transit may either (1) revise the evaluation process to correct the matter protested; or (2) cancel the solicitation in its entirety. In the event that Bis-Man Transit proceeds with an award for one of the reasons stated above, and the protest is subsequently upheld, Bis-Man Transit shall determine whether the performance of the contract will reasonably permit its termination in order to correct the protested matter. Such termination shall be for the convenience of Bis-Man Transit.

1.10.5 Evaluation of Protests

A protest decision should ordinarily be written and published within ten (10) working days of receipt of the protest. Bis-Man Transit may extend the response period if additional time is required to gather and evaluate information necessary for the decision or for other good cause.

Upon receipt of a protest, Bis-Man Transit shall notify parties involved in the procurement as identified above, and such Bis-Man personnel or others as may be appropriate or necessary to determine the validity of the protest. A notice of the receipt of a protest should be sent to the FTA regional office, per FTA Circular 4220.1F, Chapter VII, Sec. 1.a(2). Copies of the protest submittal, or portions thereof, may be provided to the notified parties as appropriate. Bis-Man Transit may request additional written information from the protestor or other parties, as necessary to determine the validity of the protest. A formal or informal hearing may be held. If a formal hearing is held, testimony shall be given under oath and a transcript or electronic recording of the proceeding shall be made; the transcript or recording shall be provided to the protestor and made part of the protest record. Bis-Man Transit shall redact from any submission under the protest process information which has been identified as proprietary, and which, in his/her judgment, is protected from disclosure under the North Dakota state law.

1.10.6 Protest Appeal

Appeals Decisions of Bis-Man Transit may be appealed to the Board of Directors by the protestor within five (5) working days after the decision is issued to the protestor. The appeal shall be in writing, addressed to the Bis-Man Transit Board of Directors with a copy to the Executive Director, and shall state with specificity

the basis for the appeal. The Executive Director shall review the written record of the protest and may conduct such further investigation as is deemed necessary or appropriate to reach a decision. The decision of the Executive Director and Bis-Man Transit Board of Directors will ordinarily be issued within fifteen (15) working days of receipt of the appeal; this time period may be extended if necessary to complete an investigation. The decision of the Executive Director and Board of Directors shall be final and conclusive, except for such remedies as state or federal law or regulation may provide.

1.10.7 Protests Filed with FTA

A protestor may file a protest with FTA only after exhausting all administrative remedies provided by the Bis-Man, on the basis described in FTA Circular 4220.1F, Chapter VII, Sec. 1.b. FTA review of protests will generally be limited to allegations (1) Bis-Man Transit does not have or fails to follow its protest procedures; (2) Bis-Man Transit failed to review a complaint or protest; or (3) the issue involves violations of Federal law or regulation. The FTA is not obligated to review any protest. Protests addressing the Bis-Man Transit DBE program may be submitted to the U.S. Department of Transportation, Office of Small and Disadvantaged Business Utilization, in accordance with 49 CFR Part 26 and guidance issued there under.

2.0 **POLICIES**

2.1 Ethics

2.1.1 Relationships

In all procurement matters relating to Bis-Man Transit, no Bis-Man Transit employee, officer, board member, legal counsel or other agent, including any member of an evaluation committee for a Bis-Man Transit project, or any member of his/her immediate family, or his/her partner, or any organization employing or about to employ any of the above, shall participate in the selection, award, administration, or performance of a Bis-Man Transit contract if a conflict of interest, real or apparent, would exist. Such a conflict would exist when an employee, officer, or agent of Bis-Man Transit or any member of his/her immediate family, or his/her partner, or an organization employing or about to employ any of the above, has a material financial or other interest in a firm selected for award of a contract. Any interest as owner or stockholder of one percent (1%) or less in such a firm shall not be deemed to be a material financial interest, but serving as Director, officer, consultant, or employee of such an organization would be deemed a material interest.

2.1.2 Gifts and Gratuities

It is Bis-Man Transit policy no employee, officer, or agent of Bis-Man Transit shall solicit or accept, directly or indirectly, any gift or gratuity, favor, entertainment, transportation, lodging, loan or other thing of value from a contractor, potential contractor, or subcontractor which is of such a character as to manifest a substantial and improper

influence upon him/her with respect to assigned duties, or that would give the appearance of such an influence. Unsolicited gifts of nominal intrinsic value shall not be deemed to manifest a substantial and improper influence.

2.1.3 Violations

Violation of this Standard of Conduct/Ethics Policy by any employee shall subject the individual to disciplinary action up to and including discharge as determined by the Executive Director of Bis-Man Transit. Violation of this policy by the Executive Director, officer or agent of Bis-Man Transit shall subject the individual to disciplinary action or sanction as determined by the Bis-Man Transit Board. Violation of this policy by contractors or their agents may be considered a breach of contract and shall subject such contractor or agent to action up to and including cancellation of contract and suspension and debarment from contracting with Bis-Man Transit. Violation of this policy by bidders or potential contractors may be considered to make such bidder or bidder ineligible to bid or render a bid or proposal non-responsive.

2.2 Organizational Conflict of Interest

It shall be Bis-Man Transit policy in soliciting and contracting for goods and services to prevent any real or apparent organizational conflict of interest which would arise when the nature of work to be performed under the proposed contract would result in an unfair competitive advantage to the contractor in the award of future work. No Bis-Man Transit employee will be allowed to bid on any potential contract to avoid the potential for bias in the process. It shall not be a bid or proposal requirement that a prospective vendor or contractor have prior contracts with Bis-Man Transit.

An organizational conflict of interest occurs when any of the following circumstances arise:

- (a) Lack of impartiality or impaired objectivity. When the contractor is unable, or potentially unable to provide impartial and objective assistance or advice to the grantee due to other activities, relationships, contracts, or circumstances.
- (b) Unequal access to information. The contractor has unfair competitive advantage through obtaining access to nonpublic information during the performance of an earlier contract.
- (c) Biased ground rules. During the conduct on an earlier procurement, the contractor has established the ground rules for a future procurement developing specifications, evaluation factors, or similar documents.

Bis-Man Transit is required to analyze potential organizational conflicts at the "requisition" stage and certify on the requisition form that potential organizational conflicts have been analyzed, and document the findings on the Fair and Reasonable Price Form. These forms will be approved by the authorized purchasing personnel.

2.3 Centralized Purchasing Authority

- 2.3.1 The authority and responsibility for the procurement and disposal of all material, equipment, vehicles, property and services for Bis-Man Transit rests with the Executive Director. Occasionally, certain authority or responsibility may be delegated to other staff for a limited period of purpose and always subject to the review by Bis-Man Transit Board of Directors.
- 2.3.2 All purchases of goods and services shall be initiated by a user department through use of a purchase requisition, except where noted herein.
- 2.3.3 Staff is responsible for early involvement of the purchasing process in planning for procurements in order that full and open competition is maximized. This early notification and involvement will range from 90 to 120 days before contract initiation for annual bids for routine materials procurements, to one year or more for major capital purchases.
- 2.3.4 Staff is responsible for providing, in a manner as thorough and complete as possible, Scope of Work or technical specifications for their requirements for Bis-Man Transit. Bis-Man Transit shall assist user departments to define their requirements when requested.
- 2.3.5 Staff may consult with vendors concerning details of their products.
- 2.3.6 All correspondence with a supplier regarding a matter of its contract with Bis-Man Transit, whether relating to the scope of work, specifications, quality of work, delivery, payment, etc., shall be by or through Bis-Man Transit staff.
- 2.3.7 Staff shall be responsible for the conduct of all negotiations with bidders, prospective contractors, or contractors with assistance from the Executive Director and legal counsel.
- 2.3.8 Bis-Man Transit has full authority to question the quantity, kind, and quality of material or services requisitioned, in order to avoid purchase of unnecessary or duplicative items or items of questionable value to Bis-Man Transit, and to consider consolidating or breaking out procurements to obtain economical purchases.
- 2.3.9 Bis-Man Transit may consider and pursue, in the interest of economy and efficiency, the use of Federal, State and local intergovernmental agreements for procurements, agreements for the use of common goods and services, or the use of federal or state excess and surplus property, when it is in the interest of Bis-Man Transit to do so and complies with Federal Transit Administration (FTA)/North Dakota Department of Transportation (NDDOT) requirements and guidelines.

- 2.3.10 It is Bis-Man Transit's responsibility to ensure that awards are made only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement and in compliance with the requirements of 49 U.S.C 5325(j) and 2 CFR 200.18(k). To that end, it will consider such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources in determining whether a potential contractor is responsible.
- 2.3.11 It is Bis-Man Transit's responsibility to maintain records sufficient to detail the significant history of procurement, including, but not limited to: rationale for method of procurement, selection of contract type, selection or rejection of contractors, basis for contract price, contract amendments or change orders, and contract close-out. Historical procurement records shall be maintained in compliance with 2 CFR Part 200.
- 2.3.12 The Executive Director shall be responsible for the settlement of all contractual and administrative issues arising out of procurements, including source evaluation, protests, disputes and claims. In dealing with protests, Bis-Man Transit shall follow Bis-Man Transit's written protest procedure (see Section 1.10).
- 2.3.13 Bis-Man Transit shall conduct procurements in a manner that prohibits statutorily or administratively imposed in-state or geographical preferences in evaluation of bids or proposals, except where federal statutes expressly mandate geographic preference.

2.4 Approval Levels for Purchases

The following represent Bis-Man Transit required approval levels for procurement requisitions. Approvals must be obtained before committing Bis-Man Transit funds. The purchasing authority listed below shall be further limited by the approved and adopted Bis-Man Transit fiscal year budget. Any purchase which is not included in the approved and adopted Bis-Man Transit fiscal year budget shall be approved by the Board.

<u>Amount</u>	<u>Approval Required</u>
Up to \$10,000.00	Executive Director
Over \$10,000.00	Bis-Man Transit Board, City of Bismarck Liaison
Over \$25,000.00	Bismarck City Commission (for new equipment)

2.4.1 Emergency Purchases

An emergency is defined as a real and present threat to Bis-Man Transit property, employee welfare, or the provision of transit service that cannot be reasonably alleviated without the purchase in question. In all cases, the Executive Director will be involved.

During normal business hours, the requirement will be addressed to the approval level and the Executive Director, who will coordinate necessary pricing and may issue a purchase order.

After normal business hours, Executive Director will determine whether the matter may be resolved during the next business day. If not, an attempt will be made to secure price quotations from two or more reputable sources, and a purchase made. A requisition will be prepared the next business day and fully documented as to the nature of the emergency, and approval signatures will be obtained

2.5 Disadvantaged Business Enterprises

2.5.1 Program

Federal Transit Administration law requires a certain percentage of the goods and services (exclusive of rolling stock) purchased with federal funds by grant recipients must be dedicated to Disadvantaged Business Enterprises (DBEs). A DBE firm is a small business concern that is at least 51% owned and controlled by one or more socially and economically disadvantaged individuals. A “socially and economically disadvantaged individual” is defined by the federal government as a citizen of the United States who is female and/or African American, Hispanic American, Native American, Asian-Pacific American, or Asian-Indian American.

2.5.2 Policy

It is the policy of Bis-Man Transit to actively encourage and assist DBEs to participate competitively in Bis-Man Transit procurement actions. The Executive Director is Bis-Man Transit’s DBE Liaison Officer (DBELO). The DBELO is responsible for DBE program coordination and enforcement and works closely with the other Bis-Man Transit staff in day-to-day implementation of the program.

The DBE goals are established triennially based on projected expenditures for construction, professional services, materials and supplies, and equipment, and anticipated opportunities to use DBE vendors to fulfill those requirements.

The Executive Director, working as the DBELO, shall take affirmative steps to establish maximum participation of DBE vendors in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26.

2.5.3 Award Procedures

All Bids, Proposals, and quotes should be reviewed to ensure that minimum acceptable specifications for those goods and/or services are met. When making purchases, Bis-Man Transit employees who are responsible for purchase decisions should consult the Certification Process list of DBE approved vendors. If such a vendor is identified, the potential contractor should be notified that Bis-Man Transit is considering an expenditure that the DBE firm may be in a position to satisfy. Bis-Man Transit employees should

employ all reasonable means of identifying DBE vendors. If no DBE vendor can be found, the Executive Director should document the steps taken on the purchase requisition form.

2.6 Audits/Inventory of Assets

2.6.1 Real Property Acquisition and Management

Bis-Man Transit shall follow the requirements for acquisition and management of real property specified in Federal Transit Administration Circular 5010.1D, Management of Real Property, Equipment and Supplies. Concurrent with its biennial equipment certification, Bis-Man will review all real property acquired with FTA assistance and certify to FTA what property continues to be needed for project purposes. If excess real property exists, an excess real property utilization plan or plan for disposal shall be prepared and submitted.

2.6.2 Equipment Management Standards

Bis-Man Transit shall follow the requirements for management of equipment purchased with federal funds specified in FTA Circular 5010.1D, Management of Real Property, Equipment and Supplies. At least once every year, Bis-Man Transit will conduct a physical inventory and account for all equipment and other capital assets. The property record maintained for each item shall include:

- (a) Description,
- (b) Identification number,
- (c) Procurement source, (grant number and percent of federal participation)
- (d) Purchase date,
- (e) Purchase cost,
- (f) Use and condition
- (g) Location,
- (h) Date of disposal, if disposed, and
- (i) Sale price or method used for determining fair market value
- (j) Documentation regarding who holds title to the equipment

In connection with the physical inventory of assets, a Certification will be prepared regarding the existence, current use, and continued need for FTA/NDDOT funded equipment. For those items identified as surplus staff will be responsible for developing a plan for disposal for approval by the Executive Director.

2.6.3 Parts and Supplies Inventory

Bis-Man Transit will conduct an annual inventory of parts and supplies (or other method such as cycle counting) to reconcile items in stock versus record of those on hand. The accountant shall prepare a variance report identifying discrepancies and their value.

2.7 Disposition of Surplus Equipment and Supplies/Scrap

2.7.1 Identification of Surplus/Obsolete Materials, Supplies, Equipment and Scrap –

The identification of surplus equipment, material, or scrap shall be the responsibility of Bis-Man Transit staff. Equipment shall be surplus to Bis-Man Transit when it becomes obsolete to Bis-Man Transit because it has been replaced by newer equipment or because the equipment no longer supports the Bis-Man Transit mission. Equipment shall be scrapped only when it is non-functional and non-repairable, and has little or no value unless functional.

Parts are surplus when the part is no longer applicable to the Bis-Man Transit fleet or when stock on hand exceeds the maximum established by the usage history of the item for a period of over one (1) year.

All items identified as surplus or obsolete with a value under \$5,000 must be sold at fair and reasonable prices. All reasonable offers made will be reviewed and approved by Bis-Man Transit Executive Director. Items that the City of Bismarck have an interest in, require approval for disposal of from the City Commission.

2.7.2 Disposition Before End of Service Life

Any disposition of rolling stock before the end of its service life requires prior FTA/NDDOT approval. FTA/NDDOT is reimbursed its share of the proceeds from disposition. If revenue rolling stock is being removed from service before the end of its useful life, the return to FTA/NDDOT is the greater of the FTA/NDDOT share of the unamortized value of the remaining service life per unit, based on straight line depreciation of the original purchase price, or the Federal share of the sales price (even though the unamortized value is \$5,000 or less).

2.7.3 Retain and Use Elsewhere

When original or replacement equipment is no longer needed for the original project or program, it may be used by Bis-Man Transit for other projects or programs. FTA/NDDOT prior approval of this alternative is required. FTA/NDDOT retains its interest if the fair market value of the project property is over \$5,000.

2.7.4 Value Over \$5,000

After the service life of equipment is reached, equipment with a current market value exceeding \$5,000.00 per unit, may be retained or sold, with reimbursement to FTA/NDDOT of an amount calculated by multiplying the total aggregate fair market value at the time of disposition, or the net sales proceeds, by the percentage of FTA/NDDOT participation in the original grant. A Bis-Man Transit transmittal letter should state whether the equipment will be retained or sold.

2.7.5 Less than \$5,000 value

Equipment with a unit market value of \$5,000.00 or less, or supplies with a total aggregate market value of \$5,000.00 or less, may be retained, sold or otherwise

disposed of with no obligation to reimburse FTA/NDDOT, providing useful service life requirements have been met. Records of this action must be retained.

2.7.6 Like-Kind Trade-In or Offset Exchange

With prior FTA approval, Bis-Man Transit may elect to use the trade-in value or the sales proceeds to offset the cost of a replacement bus, applying 100 percent of the net proceeds to acquisition of the replacement vehicle/s. (See 49 *CFR*, Part 18.32; and *Federal Register* pp. 39328/39329, dated August 28, 1992). Remaining cost differences, if more than the proceeds, are to be met by Bis-Man Transit. Excess proceeds, if any, are returned to FTA minus a deduction for pro rata local share.

2.7.7 Transfer to Public Agency for Non-Transit Use

With prior FTA approval, Bis-Man Transit may follow procedures for publication in the *Federal Register* to transfer property (including land or equipment) to a public agency with no repayment to FTA. These procedures are available from the regional FTA office. [49 U.S.C. 5334(g)(1)]

2.7.8 Sell and Use Proceeds for Other Capital Projects

With prior FTA approval, Bis-Man Transit may sell equipment or supplies and use the proceeds to reduce the gross project cost of other FTA eligible capital transit projects. [49 U.S.C., 5334(g)(4)] Bis-Man Transit will record the receipt of the proceeds in its accounting system, showing that the funds are restricted for use in a subsequent capital project, and reduce the liability as the proceeds are applied to one or more FTA approved capital projects. Bis-Man Transit will show on subsequent grant applications that the gross project cost has been reduced with the proceeds from the earlier transaction.

2.7.9 Unused Supplies

Disposition of unused supplies before the end of the industry standard life expectancy is determined in total aggregate fair market value and if found to exceed \$5,000, Bis-Man Transit (or a sub recipient) shall compensate FTA for its share; or transfer the sales proceeds to reduce gross project cost of other capital project(s). [49 U.S.C. 5334(g)(4)].

2.7.10 Disposal of Scrap

Materials, parts, or equipment identified as scrap and having recovery value shall be sold to the highest of three scrap dealers willing to make quotations. The disposition of scrap must be approved by the Executive Director prior to disposition. All sales shall be by cashier's check or cash, unless otherwise approved by the Executive Director.

3.0 RESPONSIBILITIES

3.1 General

The authority to award contracts exceeding \$10,000 rests with Bis-Man Transit Board. This authority is delegated, in part, to the Bis-Man Executive Director who has further delegated responsibilities to subordinates to carry out daily operations.

Bis-Man Transit procurement functions are the responsibility of Bis-Man Transit Staff. The Executive Director is in charge of daily operations and serves as the Bis-Man Transit Contracting Officer. By centralizing authority for purchasing, Bis-Man assures close control of the procurement process and consistent application of Bis-Man policies. The responsibilities of persons involved in the procurement process are described in the following paragraphs.

3.2 Bis-Man Transit Board

- (a) Contracting authority for purchases exceeding \$10,000 spanning total life of contract.
- (b) Establishes agency operating budget and capital plan and budget based on recommendations of Executive Director and staff.
- (c) Approves all purchases over \$10,000.00 resulting from advertised bids, based on Staff's recommendation.
- (d) Authorizes disposal of capital items, with an aggregate fair market value of more than \$5,000.00.
- (e) Sets annual DBE goals based upon recommendation of Bis-Man Transit Executive Director and staff.
- (f) Approves Procurement Policy.

3.3 Executive Director

- (a) Approves all purchases up to \$10,000 and reviews all purchases subject to approval by the Board prior to submittal to the Board.
- (b) May sign any contract with a total cost up to \$10,000 on behalf of Bis-Man Transit. May sign any contract exceeding \$10,000 upon Board approval.
- (c) Approves disposal of surplus materials, supplies, and equipment, with an aggregate fair market value of less than \$5,000.00.
- (d) Approves any changes to internal purchasing procedures and assures compliance with Bis-Man Transit purchasing policies.

(e) Assures that 49 CFR Part 26 and other federal, state and local regulations are adhered to by Bis-Man Transit. Please refer to the Bis-Man Transit DBE Policy for further duties and responsibilities.

3.4 Accountant

Authorizes payments to vendors upon Executive Director verification of receipt.

3.5 Disadvantaged Business Enterprise Liaison Officer (Executive Director)

Assures that 49 CFR Part 26 and other federal, state and local regulations are adhered to by Bis-Man Transit. Please refer to the Bis-Man Transit DBE Policy for further duties and responsibilities.

4.0 ACQUISITION PLANNING

4.1 General

Bis-Man Transit recognizes advance procurement planning is a significant factor in providing and enabling full and open competition in compliance with 2 CFR Part 200. Such planning for large or complex procurements will involve the efforts of all personnel responsible for a procurement to coordinate in planning the funding, technical specifications/scope of work, solicitation of award, contract administration, and other matters far enough in advance to assure adequate time to solicit maximum participation by prospective vendors in meeting the requirement. Generally, planning for large or complex non-inventory procurements will begin with the annual budgeting and capital planning process. However, very complex procurements may require advance procurement planning to begin before the annual budget cycle in order to properly identify a project scope and budget.

4.2 Staff Responsibilities

Staff initiating the purchase requisition form are responsible for providing the procurement staff with technical specifications and any necessary drawings for equipment or materials contracts, or a Scope of Work and suggested evaluation criteria for the procurement. Technical specifications or the Scope of Work will set forth the minimum essential characteristics or standards and will not include any features unduly restricting competition. "Brand name or equal" specifications will only be used when it is impractical to provide a clear and accurate technical description of the product, and will to the extent possible describe the relevant functional characteristics of the items to be purchased.

In addition to a purchase requisition, the following must be furnished prior (if appropriate to the purchase):

- (a) Product/service description,
- (b) Desired delivery schedule,
- (c) Technical evaluation criteria in order of merit,
- (d) Special terms and conditions for contract,
- (e) Progress reporting requirements, and
- (f) List of potential vendors (contact name, address and phone number) if response list is incomplete.
- (g) Fair and Reasonable determination on the Purchase Order

Early coordination regarding staff requirements with Executive Director will enable any required assistance to be given in developing the above information in a timely manner. The Executive Director subsequently requires time to develop, advertise, and issue a solicitation, and the proper amount of time must also be given to evaluation and award, including Board approval, before the requirement is needed.

Finally, requires that an independent cost estimate for all purchases of materials, equipment or services be provided before soliciting quotations, bids, or proposals. Staff initiating projects are responsible for providing an independent cost estimate to the Executive Director for the contract file prior to solicitation.

4.3 Planning Major Procurements

In order to provide for a smooth flow of major procurement work, staff will annually convene one or more meetings regarding the annual budget approval process for the purpose of advance procurement planning for the year. The expected result of such meeting(s) will be agreement as to responsibilities for and the general timing of procurement effort for major projects in order that consistency of procurement activity is achieved and timely solicitations are made.

4.4 Planning Routine Procurements

Periodically, but no less often than every six months, the Executive Director will issue to staff an advance schedule of contract expirations and requirements for re-bid for the coming twelve-month period. This schedule will list the contract and its expiration date, person responsible for specifications/scope of work and due date. Planning routine procurements in such a manner enables the Executive Director maximum opportunity to properly schedule non-routine procurement activity.

5.0 METHODS OF PROCUREMENT – BELOW FORMAL BIDDING THRESHOLD

5.1 General

The Executive Director will work with staff to determine the most appropriate method of procurement for their requirements. Purchases will be made by the following methods and in compliance with 2 CFR Part 200:

- (a) Micro-purchases
- (b) Small purchase procedures
- (c) Emergency purchases
- (d) Check request/direct pay items
- (e) Invitation for Bids (hereinafter IFB)
- (f) Request for Proposals (hereinafter RFP) or
- (g) Non-competitive procurements

A significant portion of Bis-Man Transit purchasing activity involves purchases of materials or services under the threshold for formal advertising and bidding, generally termed small purchases. Small purchase procedures are covered in this section.

Completion of a purchase requisition is required and the necessary approvals secured prior to the commitment of Bis-Man Transit funds. The only exceptions to this rule are:

- (a) Micro purchases within limits,
- (b) Emergency purchases coordinated through the Executive Director, and
- (c) Direct pay items under existing contracts or with proper prior approvals or authority for expenditure.

5.2 Micro-Purchases

Bis-Man Transit may acquire small-dollar value non-inventory items, property and services valued at less than \$10,000 without obtaining competitive quotes but shall provide for competition whenever practicable. This threshold is below FTA regulations contained in FTA Circular 4220.1F defining small-purchases. Such purchases are exempt from Buy America requirements. There should be equitable distribution among qualified suppliers (in the local area) and no splitting of procurements to avoid competition. The Davis-Bacon Act (40 U.S.C. §3141 et seq.) applies to construction contracts greater than \$2,000. The minimum documentation required is the determination that the price is fair and reasonable and how that determination was derived. The determination of price reasonableness will be recorded on preprinted forms on the receipt or purchase order. The documentation shall employ terminology similar to the following: "The price(s) paid for items hereunder are determined to be fair and reasonable, based on the following:

- (a) Adequate competition (three or more quotes received and award made to lowest)
- (b) Current price lists or off-the-shelf pricing
- (c) Catalog price
- (d) Prices found reasonable on recent previous purchases
- (e) Advertisements
- (f) Similar items in a related industry
- (g) Independent price estimate (attach documentation)
- (h) Other (cite basis)

5.3 Small Purchases

Bis-Man Transit defines small purchases as those relatively simple and informal methods for securing supplies, services, or property that cost more than \$10,000 but do not cost more than \$50,000 in the aggregate. This small purchase threshold is below FTA regulation. If small purchase procedures are used, price or rate quotations shall be solicited from an adequate number of qualified sources. The number of sources will depend upon the availability of qualified sources, but the objective should ordinarily be to obtain quotes from at least three vendors. Both the solicitation and quotes should be written, in either electronic or hard copy form. Generally, the contract will be in the form of a purchase order, although the nature of the procurement (e.g. for services) may require additional terms and conditions.

5.4.1 Bis-Man Transit Competition Guidelines

The competition guidelines expressed below apply only to purchases that are greater than \$50,000 annual threshold requiring formal advertising, solicitation and bid. However, such purchases are not automatically excluded from consideration for formal bidding without advertising if cost-savings or other factors make bidding advisable. The Executive Director and staff will periodically examine proposed expenditures for lines or classes of standard commercial items of material exceeding \$15,000.00 annually, based on 12-month usage history, to determine if cost savings may be realized through a formal bid process.

For all types of purchases less than the statutory threshold for formal bids, competition guidelines will be relieved when the purchase is known to be "sole source" or when there are less than two potential sources available or willing to quote. In such cases, FTA-required procedures for sole-source acquisitions and documentation (see Section 8 Non-Competitive Negotiation) will be followed and all efforts to identify and solicit competitive quotations from an adequate number of vendors will be documented.

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5.4.2 Check Request/Petty Cash/Direct Pay Items

Certain expenses are incurred without the issuance of a purchase requisition supporting each payment. Such expenses are typically the following types:

- (a) Periodic vendor payments under established vendor contracts or leases
- (b) Utility and telephone bills
- (c) Licenses and permits
- (d) Organizational membership dues, conferences and registration fees, travel advances, and employee reimbursement (may be subject to prior approval)
- (e) Subscriptions to trade journals, periodicals, newspapers
- (f) Postage
- (g) Investigative expenses (background investigations)
- (h) Settlement of claims and litigation
- (i) Minor office supplies

For some of these payments, Bis-Man Transit will receive a bill or invoice and for others, Bis-Man Transit may bear the responsibility for meeting a scheduled payment. These payments shall be made by the Accountant pursuant to approval by the Executive Director.

6.0 FORMAL PROCUREMENT METHODS

6.1 General

When Bis-Man Transit requirements for a line or class of materials to be purchased annually exceeds \$50,000 or rental/lease payments shall exceed \$50,000 annually, or a simple service contract shall be over \$50,000, formally advertised competitive bidding is required. Sealed bids are publicly solicited and a fixed-price (lump sum or unit price) contract 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.

In addition to the above required formally advertised IFB solicitations, Bis-Man Transit may determine in certain circumstances that issuing an IFB with or without formal advertising for a purchase requirement under the annual threshold would be appropriate in order to secure a favorable price or other benefit to Bis-Man Transit.

6.2 Conditions Determining When Formal Advertising is Appropriate

The following conditions should be present for an IFB to be considered:

- (a) A complete, adequate and realistic specification or purchase description is available;
- (b) Two or more responsible bidders are willing and able to compete effectively for the business;
- (c) 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; and
- (d) No discussion with bidders is needed.

If this procurement method is used, the following requirements apply:

- (a) The invitation for bids will be publicly advertised and bids shall be solicited from an adequate number of known suppliers, providing them sufficient time to prepare bids prior to the date set for public opening of the bids (usually the due date shall not be less than 30 days from the issue date of the IFB);
- (b) The invitation for bids, which will include any specifications and pertinent attachments, shall define the items or services sought in order for the bidder to properly respond;
- (c) All bids will be publicly opened at the time and place prescribed in the invitation for bids;
- (d) A firm fixed-price contract award will be made in writing to the lowest responsive and responsible bidder. When specified in bidding documents, factors such as discounts, transportation costs, and life cycle costs shall 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

- (e) Any or all bids may be rejected if there is a sound documented business reason.
- (f) Immediately after the receipt and opening of bids, Bis-Man Transit staff shall examine all bids timely received to determine if they are responsive. Responsiveness is determined at the time of bid opening, and cannot involve any material or information received thereafter. A responsive bid is one that is timely received and which complies with all requirements of the solicitation; it must represent a clear and unequivocal offer to provide the good or services specified at a stated price or prices. Exceptions to the specification or contractual terms, or ambiguous or conditional pricing shall render a bid non-responsive. However, if the terms of the solicitation permit, minor informalities may be waived, defined as matters not affecting the price, schedule, or quality of the bid.
- (g) Bis-Man Transit staff shall determine if the lowest responsive bid was submitted by a responsible bidder. This evaluation considers whether the bidder has in all aspects the ability to successfully perform the contract, including the necessary technical and financial resources; the prior experience and integrity; and capability of providing the specified insurance, bonding, and DBE participation. Price reasonableness is also evaluated in the process. If this evaluation raises concerns regarding the bidder's capability in any of these areas, the bidder should be given a reasonable opportunity to show why it should not be found non-responsive. In the event a bidder is

determined non-responsible, it shall be so notified, and the responsibility of the next-lowest responsive bidder evaluated.

The sealed bid method is the preferred method for procuring any type of construction project, if the conditions in the feasibility paragraphs above apply.

6.3 Public Advertising

Invitations for Bid for purchases over \$50,000, in aggregate or annually, will be publicly advertised at least thirty (30) days before the date that bids will be received. At a minimum, publication will occur on Bis-Man Transit website and or locally in the general newspaper of largest circulation in the Bismarck-Mandan area. As appropriate to the purchase, publication may also be placed in the Local Record, construction or equipment trade journals, transit trade journals, appropriate web sites, etc. to foster competition. In addition to the public notice, bids are to be solicited directly from potential bidders. Any such direct solicitations shall include minority and woman-owned businesses, where practical.

Bis-Man Transit Staff will also maintain Bidders lists for routine types of purchases containing current and prospective vendors. Names of vendors may be added at their request or by the Executive Director.

6.4 Solicitation: Preparation of Invitation for Bid

An IFB is the complete assembly of related documents, either attached or incorporated by reference, and furnished to prospective bidders. It must describe the requirements accurately and completely. The requirements set forth in the IFB may include special qualifications required of potential contractors, life cycle costing, value analysis, and any other criteria such as testing, quality, workmanship, delivery and suitability for a particular purpose which may help in determining acceptability. Unnecessarily restrictive specifications or terms and conditions that unduly limit competition must be avoided. Some situations considered to be restrictive of competition included, but are not limited to:

- (a) Unreasonable requirements placed on firms in order for them to qualify to do business;
- (b) Unnecessary experience or excessive bonding requirements;
- (c) Noncompetitive pricing practices between firms or between affiliated companies;
- (d) Noncompetitive awards to any person or firm on retainer contracts;
- (e) Organizational conflicts of interest. An organizational conflict of interest means that because of other activities, relationships, or contracts, a contractor is unable, or potentially unable, to render impartial assistance or advice to Bis-Man Transit;

a contractor's objectivity in performing the contract work is or might be otherwise impaired; or a contractor has an unfair competitive advantage;

- (f) The specification of only a "brand name" product without listing its salient characteristics and not allowing "an equal" product to be offered; and
- (g) Any arbitrary action in the procurement process.

IFBs should contain the following information if applicable to the purchase:

- (a) IFB (sequence) number;
- (b) Name and address of Bis-Man Transit;
- (c) Date of issue;
- (d) Date, hour and place of bid opening;
- (e) Requirement for bidder to provide its name and complete address, including street, city, county, state, and ZIP code;
- (f) A statement that bidders should include in the bid the address to which payment should be mailed, if that address is different from that of the bidder;
- (g) Description of material, equipment, or services to be furnished under each item, in sufficient detail to promote competition;
- (h) Provide packaging, packing, preservation, and marking requirements, if any;
- (i) Include inspection, acceptance, quality assurance, and reliability requirements, if any;
- (j) Specify the requirements for time, place, and method of delivery or other performance;
- (k) Permission, if appropriate, to submit bids of alternate material or design (in addition to bid called for);
- (l) Statement that "Bids must set forth full, accurate, and complete information as required by the IFB";
- (m) Bid guarantee, performance and payment bond requirements;
- (n) A minimum bid acceptance period required of the bidder;

- (o) Any special technical specifications;
- (p) Any special provisions relating to progress payments, patents, liquidated damages, etc.;
- (q) Any contract provisions required by federal, state, or local law,
- (r) All factors to be considered in evaluation of bids, such as shipping costs, taxes and surcharges, etc., and how they will be considered,
- (s) How to obtain copies of documents incorporated by reference,
- (t) Instructions regarding how late bids will be handled.

6.5 Solicitation Guidelines

6.5.1 Specifications

Specifications and purchase descriptions will provide accurate descriptions of the technical requirements for the material, equipment or service and will include the procedure for determining whether the requirement has been met. When possible, Bis-Man Transit will state performance specifications defining the expected performance standards the end product is expected to achieve.

6.5.2 Bidding Time

Adequate time will be given between the issuing of bids and the time set for receipt of bids to permit prospective contractors to prepare bids. Generally, no less than 30 days will be allowed for standard commercial items and when purchasing other than standard commercial items, or purchasing services. Complex procurements for certain items of equipment or construction will require significantly longer bidding time.

6.5.3 Distribution of an IFB

An IFB over \$50,000 will be publicly advertised in accordance with Section 6.3. In addition to the public notice, they may be mailed to known prospective vendors. Records of any IFB or bid will be maintained for a reasonable period in order for the vendor to be consulted in preparing a source list for similar any IFB.

6.5.4 Amendment of an IFB

Any change or correction necessary in bid quantities, specifications, delivery schedules, opening date, etc., which is required after issuing any IFB but before bid opening, will be made by issuing an amendment. Any new information given to one prospective bidder will be furnished to all others in the form of an amendment. Consideration will be given to the period of time remaining to opening and the period will be extended in such

amendment, if necessary. Notice of amendment will be furnished to each person furnished an IFB.

6.5.5 Responsiveness of Bids

A bid must comply in all material respects with the IFB, including the method and timeliness of submission. Telegraphic or facsimile bids will not be considered under the competitive sealed bid procedure, unless specifically permitted in the IFB. Bidders are expected to use the Bis-Man Transit bid form, and in failing to do so may be considered non-responsive. Should a bidder submit a bid on its own bid form or a letter, it may only be considered if the bidder specifically states it accepts all terms and conditions of the IFB, and if the award would result in a binding contract not varying from the IFB.

6.5.6 Modification/Withdrawal of Bids

Bids may be modified or withdrawn by written, telegraphic, or facsimile notice or in person if submitted to and received by the Executive Director not later than twenty-four (24) hours before the time set for bid opening. Telegraphic or facsimile modifications or withdrawals will be sealed in an envelope by a Bis-Man Transit official and noted for opening with the bid package. Information will not be disclosed prior to opening.

6.5.7 Time and Place of Bid Submission

The IFB, and public advertisement if advertised, will set forth the time, date, and place for opening of bids. A bidder will not be required to (but may) submit a bid before the time specified for receipt of bids. Bid specifications will set forth the manner in which sealed bids are to be marked and identified as sealed bids. When received by Bis-Man Transit, sealed bids will be date stamped "Received," and the time of receipt noted.

Bids will be publicly opened and read aloud at the time and place designated in the notice. To be considered responsive, bids must be submitted not later than the exact time specified. Late bids will only be accepted if proven to be late due to Bis-Man Transit's mishandling after receipt at its offices.

6.6 Two-Step Sealed Bidding

Two-step sealed bidding is a procurement method involving the submittal of non-priced technical proposals in the first step, and a sealed bid submittal in the second step. Two-step competitive sealed bidding is used when it is impractical to initially prepare a definitive purchase description to support an award based on prices. This method is especially useful in acquisitions requiring technical proposals, particularly those for complex items. In such instances a Request for Proposal is issued requesting the submission of non-priced technical proposals, to be followed by an IFB for a price, limited to those bidders whose offers have been qualified under the criteria set forth in the first solicitation. There is no negotiation in the two-step competitive bid process; however, Bis-Man Transit, at its option, may request information from bidders to clarify material contained in their technical proposals.

6.6.1 Conditions for Use

Unless other factors require the use of sealed bidding, two-step sealed bidding may be used in preference to negotiation when all of the following conditions are present:

- (1) Available specifications or purchase descriptions are not definite or complete or may be too restrictive without technical evaluation, and any necessary discussion, of the technical aspects of the requirement to ensure mutual understanding between each bidder and Bis-Man Transit;
- (2) Definite criteria exist for evaluating technical proposals;
- (3) More than one technically-qualified source is expected to be available;
- (4) Sufficient time will be available for use of the two-step method;
- (5) A firm-fixed-price contract or a fixed-price contract with economic price adjustment will be used.
- (6) None of the following precludes the use of two-step sealed bidding:
- (7) Multi-year contracting
- (8) Bis-Man-Transit owned facilities or special tooling be made available to the successful bidder
- (9) A total small business set-aside
- (10) The use of the price evaluation adjustment for small disadvantaged business concerns
- (11) The use of a set-aside or price evaluation preference for small business concerns
- (12) A first or subsequent production quantity is being acquired under a performance specification

6.6.2 Procedures for Two-Step Sealed Bidding

Two-step sealed bidding is a procurement method involving the submittal of non-priced technical proposals in the first step, and a sealed bid submittal in the second step.

6.6.3 The Two-Step process is appropriate when all of the following conditions exist:

- (a) Available specifications or purchase descriptions are not definite or complete or may be too restrictive without technical evaluation and any necessary discussion

of the technical aspects of the requirement to ensure mutual understanding between each source and Bis-Man Transit.

- (b) Definite criteria exist for evaluating technical proposals.
- (c) More than one technically qualified source is expected to be available, and more than one technical solution is considered possible.
- (d) Sufficient time will be available for use of the two-step method.
- (e) A firm-fixed-price contract or a fixed-price contract with economic price adjustment will be used.

6.6.4 Step One

The first step requires bidders to submit technical proposals for evaluation, generally under the procedures for competitively negotiated procurements. Proposals are evaluated for technical merit including, if appropriate, discussions with bidders and requests for revised proposals. The objective of the process is to negotiate one or more technical solutions acceptable to Bis-Man Transit. As part of this process, staff will conduct a responsibility review of each proposer and resolve any concerns in this area. At the end of this step, the providers of acceptable technical solutions will have been identified, and the proposed solutions negotiated to provide a definition of each which meets the requirements for a sealed-bid specification, although in this case, the specification for each will be different, reflecting the proposer's technical approach.

6.6.5 Step Two

Each bidder whose technical proposal as negotiated has been found acceptable is invited to submit a sealed bid to provide the goods or services defined in its negotiated technical proposal. Award is based upon the lowest responsive price from a responsible bidder.

6.7 Competitive Negotiations (Sealed Proposals)

The competitive negotiation procurement process is conducted through a formal Request for Proposals (RFP). This method of procurement is generally used when conditions are not appropriate for the use of sealed bids. This method may be used for acquisition of supplies or services only if staff determines in advance that competitive sealed bidding is not practicable and documents the file accordingly.

Architect/engineering and related services are procured through a variation of the RFP process, as described below.

6.7.1 Competitive Negotiation Method

The competitive negotiation method of procurement is appropriate staff determines the following conditions exist:

- (a) A complete, adequate, and realistic specification or purchase description is not available.
 - (b) Two or more responsible bidders are willing and able to compete effectively for the award.
 - (c) The selection of the successful bidder requires consideration of factors other than price.
 - (e) Discussions with bidders are anticipated to be needed.
- 6.7.2 Each RFP will include a description of the factors other than price by which proposals will be evaluated. Evaluation factors and sub factors will be listed in order of their relative importance. For RFPs other than small purchases, technical and pricing proposals shall be submitted in separate volumes.
- 6.7.3 Bis-Man Transit will appoint persons who have knowledge of procurement subject matter/technology to participate in the Technical Evaluation Panel (TEP). To the extent feasible, the panel members shall represent different staff members within Bis-Man Transit. Each panel member shall be required to disclose any potential conflict of interest, and may be excluded by the Executive Director on that basis. The evaluation process shall be confidential, and each participant shall not share information about the Proposals to individuals outside of the TEP. Technical personnel may be from other public agencies or contractors if necessary, providing there is no conflict of interest. The Executive Director will chair the TEP. The evaluation process is flexible, depending upon the complexity of the procurement, the number and quality of proposals, and the dollar values involved.
- 6.7.4 The TEP will review the technical evaluation factors and their relative importance as included in the RFP. In the event of any concerns, the RFP may be amended accordingly. DBE participation will not be assigned a weight as an evaluation factor, but will be considered as separate factor along with the weighted technical factors for award of the contract. Scoring shall include a description of the strengths and weaknesses of each proposal identified for each factor.

The TEP shall review the scoring, and prepare an initial report of the technical strengths, weaknesses, performance risks (if any) and ambiguities in the proposals, and identify any questions or clarifications desired from the proposers.

The TEP will, in consultation with Bis-Man Transit Staff, identify those proposers whose technical scores in combination with the proposed price gives them a reasonable chance of obtaining the award, eliminating those firms whose proposals are either technically deficient or unreasonably priced; these firms shall be notified by Bis-Man Transit they are no longer under consideration. Any firm so rejected cannot be further considered for

award. The number of remaining firms can vary depending upon the competitiveness of the proposals; while a group of three to five proposals is considered ideal, care should be taken not to eliminate any proposal otherwise qualified for the sake of an arbitrary number.

- 6.7.5 The remaining firms are considered to be in the “competitive range.” The TEP shall determine the need and methods of further exploring the quality and pricing on the proposals. The intent of this process is to ensure each proposal is revised to conform, to the greatest extent possible, to the needs of Bis-Man Transit in the solicitation. These methods may include written questions and answers, and discussions either by telephone or in person. Site visits may also be conducted if appropriate. Questions and discussions need not be identical for each proposer, but should be geared to address the perceived weaknesses of each. In this process, however, care must be taken to avoid giving proposers information from another proposal, which might give the proposer a competitive advantage.
- 6.7.6 At the end of the evaluation process, the TEP will re-score the proposals, using the same evaluation criteria and scoring. Based upon the results of the scoring, the panel may (1) eliminate some of the remaining proposals and conduct further discussions with the rest; (2) determine all firms are still in the competitive range but additional discussions are necessary; or (3) determine further discussions will not significantly affect the outcome of this procurement.
- 6.7.7 When the TEP reaches a determination, further discussion are not likely to significantly affect the outcome of the procurement, the Executive Director shall request each remaining proposer to submit a Best and Final Offer (BAFO), incorporating all revisions developed during the evaluation process. BAFOs may involve a complete resubmittal of both the technical and pricing proposals, suitably revised, or resubmittal of certain sections. When the intent is to incorporate the BAFO into the final contract, a complete resubmittal should be required. BAFOs must be submitted on an equal basis, giving each proposer the same amount of time to prepare, and with a common date and time for receipt. Failure to submit a BAFO by the time identified shall render a proposal non-responsive, unless it is the only BAFO submitted.
- 6.7.8 Following receipt of BAFOs, the TEP shall conduct a final scoring and determine the firm to be recommended for award, ensuring that the BAFO is in all respects acceptable. In rare instances, the TEP may ask the Executive Director to request revisions to the BAFO. The TEP will prepare a final evaluation report to (1) describe the technical strengths, weaknesses, and risks (if any) of the proposals in accordance with the technical evaluation criteria; (2) evaluate the proposal estimated costs for reasonableness (for cost type contracts); or prices offered (for fixed price contracts), and (3) recommend the “best value” offer – the proposal which offers the best combination of technical merit/performance and pricing.

- 6.7.9 The Executive Director shall prepare a summary of the solicitation process, including a record of the negotiation process. This document, together with a copy of all proposals and related documentation is to be kept in the official contract file.

6.8 Architect/Engineer Contracts

FTA Circular 4220.1F incorporates requirements of 40 U.S.C. § 541, known as the “Brooks Act” when contracting for architect/engineer (A&E) services. Other types of services considered A&E include program management, construction management, feasibility studies, preliminary engineering, design, surveying, mapping, and services which require performance by a registered or licensed architect or engineer. The Brooks Act requires:

- (a) Bidder qualifications are evaluated;
- (b) Price is excluded as an evaluation factor;
- (c) Negotiations be conducted with only the most qualified bidder; and
- (d) Failing agreement on price, negotiations with the next most qualified bidder are conducted until a contract award can be made to the most qualified bidder whose price is fair and reasonable to Bis-Man Transit.

This “qualifications-based procurement method” can only be used for the procurement of A&E services. This method of procurement cannot be used to obtain other types of services even though a firm providing A&E services is also a potential source to perform other types of services.

6.9 Non-Competitive Procurement

Non-competitive (Sole Source) procurements are accomplished through solicitation and acceptance of a proposal from only one source. A contract amendment or change order not within the scope of the original contract is considered a sole source procurement that must comply with this subparagraph. Guidance as to what is “within the scope” of a contract may be found in the FTA Best Practices Procurement Manual, Section 9.2.1- Contract Scope and Cardinal Changes. A ‘Tag-on’ is defined by FTA as additions to the scope of work or deliverable items not included in the original contract competition, and which must be treated as sole source additions to the contract. A Tag-on is not to be treated as a change within the scope of the contract.

- 6.9.1 Procurement by non-competitive proposals may be used when only one source is practicably available and the award of a contract is infeasible under competitive small purchase procedures, sealed bids, or proposals and at least one of the following circumstances applies:

- (a) The item is only available from a single source;

- (b) The public exigency or emergency for the requirement will not permit a delay resulting from competitive negotiations;
 - (c) FTA authorizes noncompetitive negotiations;
 - (d) After solicitation of a number of sources, competition is determined inadequate.
- 6.9.2 After solicitation of a number of sources, competition is determined inadequate and an evaluation of the specifications determines they are not unduly restrictive of competition.
- 6.9.3 Receipt of a single responsive and responsible bid or proposal is not, by itself, conclusive evidence competition was inadequate; the Executive Director must determine if there was a perception of competition which would affect the bid or proposal. Under these circumstances, award is not considered a sole source. Bis-Man Transit staff, however, must investigate the reason why no other bids or proposals were received; verify the specification was not unduly restrictive and the solicitation cannot be modified in a manner resulting in greater competition; and document the file accordingly.
- 6.9.4 A cost analysis is required for each sole source acquisition.
Bis- Man Transit shall obtain a cost analysis when a price analysis will not provide sufficient information to determine the reasonableness of the contract cost. A cost analysis must be obtained when the offeror submits elements (that is, labor hours, overhead, materials, and so forth) of the estimated cost, (such as professional consulting and A&E contracts, and so forth). Bis-Man Transit 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. However, a cost analysis is not needed if Bis-Man Transit 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. FTA Circular 4220.1F Chapter VI 6. a. Cost Analysis
- 6.9.5 The contract file must include a sole source determination by Bis-Man Transit explaining the reasons for the award on a non-competitive basis. This determination must include a full description of the circumstances, including documentation of efforts to obtain competition, where appropriate.

7.0 Receipt and Evaluation of Bids and Proposals

7.1 Sealed Bids

Sealed bids must be received prior to the exact time specified in the IFB. Late bids are not acceptable, and should be returned to the bidder unopened. Prior to the time set for receipt of bids, staff should check the front desk to ensure no bids have been delivered there, and should be at the place designated for receipt of bids, (usually the building lobby) not less than five minutes prior to the deadline. The envelope of each bid received should be stamped with the date and time of receipt, to verify timeliness. Bids shall be

publicly opened, and the bid prices read. Each bid should be recorded in writing, including the name of the bidder and the bid price. Bids are public documents and bidders have the right to examine the bids of other parties after the bid opening. This should be done in a controlled environment, and not in the place of bid opening.

7.2 Competitive Proposals

Proposals must be received prior to the exact time specified in the RFP, and the Executive Director should follow the same procedure as for sealed bids prior to the deadline for receipt. However, proposals are not publicly opened. A list of proposals shall be made, including the name of the proposer and the number of copies received.

7.3 Responsiveness Review

Both bids and proposals are subject to requirements of responsiveness. This review is conducted by the Executive Director. Usually the requirement of responsiveness for a bid is more complex than for a proposal. This is because a bid is “locked in” at the time of receipt, and proposals are subject to discussions and negotiations. As a result, many items required with a sealed bid need not be submitted with a proposal. Responsiveness looks at the submittal as of the time it was received, and a bidder cannot later correct a deficiency. Any defect in an area of responsiveness requires the rejection of the bid or proposal. As a result, the Executive Director should ensure only items essential to the award be specified as matters of responsibility. The submittal of product samples, for example, is usually better treated as a matter of responsibility. The most usual matters of responsiveness include timeliness of receipt, proper signatures for a commitment by the bidder to provide the items solicited, required DBE submittals, and, where required, bid binds. Proper completion of the pricing form is a matter of responsiveness for sealed bids; any exception to the terms and conditions of an IFB renders a bid non-responsive.

7.4 Responsible Review

The following factors will be considered in determining responsiveness of a bid or proposal:

- (a) Ability and capacity of bidder to provide the materials;
- (b) Integrity, character, and reputation of the bidder;
- (c) Competency and experience of the bidder;
- (d) Past performance record of the bidder;
- (e) And the financial and technical resources of the bidder

8.0 Contract Cost and Price Analysis

8.1 Requirement

A cost or price analysis must be performed for every procurement action, including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation. FTA “Pricing Guide for Grantees” provides guidance in performing the appropriate degree of cost or price analysis.

8.2 Independent Cost Estimate

Any cost or price analysis must be based on an independent cost estimate, which should be developed before a solicitation is issued, but in no event after the receipt of bids or proposals. For contract modifications, the independent cost estimate must be prepared without knowledge of the contractor's proposed pricing. Each independent cost estimate will include the date, estimated price, and basis of determination.

8.3 Cost Analysis

A cost analysis must be performed when the bidder is required to submit the elements (i.e., labor hours, overhead, materials, etc.) of the estimated cost. A cost analysis is not required when the pricing reflects a catalog or market price of a commercial product sold in substantial quantities to the general public or is based on prices set by law or regulation.

8.3.1 A cost analysis will be necessary when adequate price competition is lacking, including sole source procurements (including contract modifications and change orders), unless price reasonableness can be established on the basis of a catalog or market price of a commercial product sold in substantial quantities to the general public or on the basis of prices set by law or regulation. Where change orders involve items for which unit prices are included in the contract, a cost analysis is not required.

8.3.2 Profit is to be negotiated as a separate element of the price for each contract in which there is no price competition and, in all cases, where cost analysis is performed. To establish a fair and reasonable profit, consideration will be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, and industry profit rates in the surrounding geographical area for similar work.

8.3.3 Costs or prices based on estimated costs for contracts will be allowable only to the extent the costs incurred or cost estimates included in negotiated prices are consistent with Federal cost principles contained in Part 31 of the Federal Acquisition Regulations.

8.4 Price Analysis

A price analysis looks at the price as a whole without examination of its various components. Several techniques may be used in performing a price analysis:

- (a) Comparing prices to those obtained for previous procurements.
- (b) Comparing prices to those obtained by other agencies for like items.
- (c) Comparing the range of prices received for the procurement involved; a price more than 10% higher or lower than the other prices received may raise questions as to whether the bidder interpreted the bid requirements differently. than did the other bidders/proposers, and may render the bid price unreasonable.

- (d) Requiring each bidder/proposer to certify that the prices offered are no higher than those charged other customers for items of similar quality and quantity.

- 8.4.1 Adequate price competition may be determined to exist when the perception of competition exists, even if only one bid or proposal is received; conversely, the receipt of multiple bids or proposals with widely differing prices may not constitute adequate price competition. If the recipient determines that competition was adequate, a price analysis, rather than a cost analysis, is required to determine the reasonableness of the proposed contract price.

9.0 CONSTRUCTION CONTRACTS

9.1 General

Under federal laws and regulations, certain special solicitation and contract requirements apply to construction contracts which are not necessarily applicable to non-construction contracts. These special requirements include mandatory requirements for bid bonds, performance bonds, and payment bonds for construction contracts over \$250,000.00, minimum insurance requirements, liquidated damages provisions in contracts, Anti-Kickback provisions and labor provisions applicable to all construction contracts under the Davis-Bacon Act.

Construction contract solicitation and administration requirements will not be covered in detail in this manual/policy. Solicitations and contracts for construction or “public work” activity will require careful review by legal counsel to assure completeness.

9.2 Federal Labor Requirements

9.2.1 Davis-Bacon Act

Bis-Man Transit is subject to the requirements of the Davis-Bacon Act, under which the advertised specifications for every Bis-Man Transit contract over \$2,000.00 for construction, alteration and/or repair, including painting and decorating of public buildings or public works which requires or involves the employment of laborers and/or mechanics, must contain a provision stating the minimum wages to be paid them based on determinations by the Secretary of Labor of local prevailing wage rates for comparable work. The rates must be posted at the site, and the wages must be paid in full no less often than weekly.

A copy of the determination of the Secretary of Labor must be included in each solicitation and the award of any contract must be conditioned upon the contractor accepting the terms of it. As a FTA grantee, Bis-Man Transit must report all reported or suspected violations to the FTA.

9.2.2 Copeland Anti-Kickback Act

Bis-Man Transit is subject to the requirements of the Copeland Anti-Kickback Act (40 U.S.C. § 276c) as supplemented by Department of Labor regulations (29 CFR Part 3) applicable to all contracts or subcontracts for construction or repair. This Act provides that each contractor or subcontractor 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/she is otherwise entitled. Bis-Man is required to report any suspected or reported violations to the FTA.

9.2.3 Contract Work Hours and Safety Standards Act

All contracts issued for construction in excess of \$150,000.00 by Bis-Man Transit or its subcontractors which involves the employment of mechanics or laborers, 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). Under Section 102 of the Act, each contractor will be required to compute the wages of every mechanic and laborer on the basis of a standard workweek of forty (40) hours. Work in excess of the standard work week is permissible provided the worker is compensated at a rate of not less than 1-1/2 times the basic rate of pay for all hours worked in excess of 40 hours in the work week.

Section 107 of the Act is applicable to construction work and provides no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his/her health and safety, as determined under construction, safety and health standards promulgated by the Secretary of Labor. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or to contracts for transportation or transmission of intelligence.

10.0 **CONTRACT ADMINISTRATION**

10.1 Post-Award Responsibilities

Post-award contract administration responsibilities include the following responsibilities:

10.1.1 Monitoring for Contract Compliance

The Executive Director is responsible for monitoring contract compliance. If relying on staff (or Project Manager) for contract compliance monitoring, the Executive Director must assure staff (or Project Manager) gives timely notice of contract compliance problems.

10.1.2 Enforcing Contract Provisions

It is Bis-Man Transit's responsibility to enforce the contract as written or amended. If not enforced, a loss of time or product quality may be incurred.

10.1.3 Issuing Timely Performance and Payment Approvals

The Executive Director is the person with authority to approve contract performance so progress payments or other authorized expenditures of funds to the contractor are made. Bis-Man Transit will develop a process to ensure proper documentation has been reviewed and approved so payment approvals can be made. Timely approvals enable the work to proceed on a timely basis.

10.1.4 Modifying the Contract as Necessary

As the contract work proceeds, modifications or changes may become necessary. After technical considerations are resolved (by project manager), it is the Executive Director who has authority to initiate non-cardinal contract changes on behalf of Bis-Man Transit consistent with the scope of the project.

10.1.5 Closing Out the Contract

When the contract performance is completed, it is the Executive Director's responsibility to close-out the contract.

10.2 Project Management

The Executive Director shall appoint a staff member to serve as the project manager for every project in excess of \$15,000.00 (this excludes purchase of standard items of material exceeding \$15,000.00 per year). It is Bis-Man Transit's responsibility to follow the contractor through the work process, providing technical direction to the contractor regarding the Scope of Work (which defines specific tasks, milestones and review procedures for the specific project). Staff will respond to correspondence on technical matters from the contractor, either orally (then following-up with a written memo to the contract file) or in writing, and shall furnish the Executive Director with a copy of or memorandum reflecting all correspondence with the contractor. Bis-Man Transit staff shall review the progress of all the work on a periodic basis and initiate any required reviews.

The contractor may be required to document the amount of time and money spent on work on a periodic basis as specified by the contract. It is the staff's responsibility to review the contractors' documentation and invoices in relation to the milestones, work expended, and budget, and to advise Bis-Man Transit whether the contractor is in compliance with the contract.

10.3 Contract Amendments and Change Orders

Change orders are amendments to a contract and may be required to adjust a contract quantity or performance period due to unanticipated conditions. Change orders are considered non-competitive procurements and are subject to the same requirements as noted in Section 8. -The Executive Director shall determine whether the proposed change order contains a change in scope, which may be grounds for bidding the extra work. All change orders are subject to Executive Director review and approval. If a change order, or the cumulative effect of all change orders, is to increase the original contract amount by over ten percent (10%) of the original contract amount approved by

the Board, the Executive Director shall submit it to the Bis-Man Transit Board for prior approval before the change is made. Change orders are subject to the availability of funds.

An independent cost estimate and a cost analysis must be performed and filed in the Bis-Man Transit contract file in along with any change order, unless price reasonableness can be established based on catalog or market price of a commercial product or on the basis of prices set by law or regulation.

10.4 Contract Requirements

Contracts established by Bis-Man Transit should set forth the responsibility and rights of each party clearly and completely in order to minimize the potential for conflict, and should set forth the directions for resolutions of disputes, if any. Contracts should include the following elements, as appropriate to the specific purchase.

(a) Statement of Work/Scope of Work

- (1) Contract Objectives
- (2) Contract Scope
- (3) Specifications/Purchase Descriptions
- (4) Progress Report Requirements (consultant/professional services contracts and any contract containing progress payment provisions)

(b) Delivery Schedule

(c) Contract Period

(c) Pricing Schedule (should include description of each line item, quantity, unit of measure, unit price and total price for each item)

(e) Payment Schedule (including special terms such as progress payments and authorities to withhold payments)

(f) Inspection Provisions and Acceptance Criteria

(g) FOB (Free on Board) Point and Delivery Instructions

(h) Other Requirements (if appropriate):

- (1) Identification of key personnel and facilities.

- (2) Extent of subcontracting and consulting.
- (3) Provision for changes by Bis-Man Transit within the general scope of the contract.
- (4) Provision for termination for default by Bis-Man Transit for its convenience and, where appropriate, suspension of the contractor's work under the contract.
- (5) Provisions for resolution of protests (required in solicitation), contract claims and disputes.
- (6) Sanctions or remedies, such as liquidated damages or performance bonds, for contract's non-performance.
- (7) Notice of any FTA or other federal requirements applicable to the contract.

10.5 Assignment of Contract Rights

- (1) Bis-Man Transit shall limit its procurements to the amount of property and services required to meet its reasonably expected needs without adding excess capacity simply for the purpose of assigning contract rights to others at a later date. Bis-Man Transit shall be able to justify the quantities it procures. Bis-Man Transit shall maintain written statements of its anticipated material requirements.
- (2) If Bis-Man Transit awards an indefinite-delivery-indefinite-quantity (IDIQ) contract for supplies or services, the solicitation and contract award shall include both a minimum and maximum quantity representing the foreseeable needs of Bis-Man Transit.
- (3) Bis-Man Transit may find it has inadvertently acquired contract rights in excess of its needs. Bis-Man Transit may assign these contract rights to other eligible public transit systems provided the original contract includes an assignability provision or contains other appropriate assignment provisions. This process is called "piggybacking."

10.5.1 Acquisition Through Assigned Contract Rights

Although FTA does not encourage the practice, Bis-Man Transit may find it useful to acquire contract rights through assignment by another recipient. Bis-Man Transit shall first determine the contract price remains fair and reasonable, and the contract provisions comply with all Federal requirements. Bis-Man Transit does not need to perform a second price analysis if a price analysis was performed for the original contract. Bis-Man Transit shall be responsible for ensuring the contractor's compliance with FTA Buy America requirements and execution of all the required pre-award and post-delivery Buy America review certifications. Before proceeding with the assignment, however, Bis-Man Transit shall review the original contract to be sure that the quantities

the assigning recipient acquired, coupled with the quantities the acquiring recipient seeks, do not exceed the amounts available under the assigning recipient's contract.

10.5.2 Alternatives to Assign Contract Rights

Assignments limit Bis-Man Transit's choices to specify property and services acquired to meet another recipient's particular needs, and may be less suited to Bis-Man Transit needs. Bis-Man Transit may use the following options:

Joint Procurements

Whenever feasible, Bis-Man Transit will consider combining or "pooling" their procurements to obtain better pricing. Joint procurements represent the combined buying power of more than one purchaser at the time when prices are established. A joint procurement offers the advantage of permitting Bis-Man Transit to acquire property and services more closely responsive to Bis-Man Transit material requirements than would be available through assignments of existing contract rights. A joint procurement contract shall include total minimum and maximum quantities.

Intergovernmental Procurements

Federal, state, and local government resources may provide attractive procurement opportunities.

10.6 Impermissible Actions

Bis-Man Transit may not use Federal assistance to finance:

(1) Improper Contract Expansion

A contract has been improperly expanded when it includes a larger scope, greater quantities, or options beyond the recipient's reasonably anticipated needs. A contract has also been improperly expanded when excess capacity has been added primarily to permit assignment of those contract rights to another entity. The Common Grant Rules require the recipient to have procurement procedures that preclude the recipient from acquiring property or services it does not need.

(2) 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. A change within the scope of the contract (sometimes referred to as an "in-scope" change) is not a cardinal change.

(3) Changes in Quantity

Bis-Man Transit may make a change in quantity in contract work to account for the realities of the marketplace and to make minor adjustments contemplated

fairly and reasonably by the parties when they entered into the contract. (See U.S. Supreme Court decision in *Freund v. United States*, 260 U.S. 60 (1922) .

(4) Tests

Among other things, customary marketing practices can influence the determination of which changes will be “cardinal.” Other tests involve the nature and extent of the work to be performed, the amount of effort involved, whether the change was originally contemplated at the time the original contract was entered into, or the cumulative impact on the contract quantity, quality, costs, and delivery terms.

(5) Rolling Stock

In the case of rolling stock, a major change in quantity or a substitution of major end items not contemplated when competition for the original award took place would generally be a cardinal change. An example of a cardinal change would be a change from a high-floor to a low-floor vehicle. Changing an engine might result in a cardinal change depending on the circumstances surrounding the project and whether a compatible replacement could be obtained through competition. Bis-Man Transit may make changes to seating, fabrics, colors, exterior paint schemes, signage, floor covering and other similar changes.

10.6.1 Federal Procurement Standards

The broader standards applied in Federal contracting practice reflected in Federal Court decisions, Federal Boards of Contract Appeals decisions, and Comptroller General decisions provide guidance in determining whether a change would be treated as a cardinal change. Pursuant to FTA direction, Bis-Man Transit shall consider the collective wisdom within these decisions in determining the nature of third-party contract changes along the broad spectrum between permissible changes and impermissible cardinal changes. For further information and clarification, Bis-Man Transit will consult FTA’s *Best Practices Procurement Manual* and “Frequently Asked Questions” at the FTA Web site: <https://www.transit.dot.gov/funding/procurement/procurement>

10.7 Special Contract Requirements

10.7.1 Liquidated Damages Provisions

Bis-Man Transit shall determine whether or not the use of a liquidated damage provision is appropriate for each specific procurement. The assessment for damages shall be at a specific rate per day for each day of overrun in contract time; and the rate must be specified in the third-party contract. Bis-Man Transit will not include such provisions in contracts unless:

- (a) the time of delivery is of such importance that Bis-Man Transit can reasonably expect to suffer damage if the delivery is delinquent,

(b) Bis-Man Transit determines the delivery schedule is reasonable at the time of contract award, and

(c) damages would be difficult or impossible to establish.

If the Executive Director determines a liquidated damages provision is necessary in a contract, he/she shall document the derivation of the rate of assessment and assure it is reasonable, proper, and not arbitrary. Any liquidated damages recovered shall be credited to the project account involved unless the FTA permits otherwise.

10.7.2 Progress Payment Provisions

The following standards relate to Bis-Man Transit use of progress payment provisions:

(a) Progress payments may be appropriate if:

(1) the contractor will not be able to bill the first delivery of products, or other performance milestones, for a substantial time after work must begin, and

(2) the contractor will make expenditures for contract performance during the period prior to delivery having significant impact on its working capital.

(b) Progress payments may be appropriate for small or DBE businesses if the contractor demonstrates actual financial need or unavailability of private financing.

(c) When progress payments are used, Bis-Man Transit will obtain title to property (i.e., materials, work in progress, and finished goods) for which progress payments are made. Such title must be free of all encumbrances, or Bis-Man Transit will secure a priority lien pursuant to Article 9 of the Uniform Commercial Code and applicable state law and local ordinances. Alternative security for progress payments by irrevocable letter of credit or equivalent means to protect Bis-Man Transit interests in the progress payments may be used in lieu of obtaining title.

10.8 Insurance Provisions

Bis-Man Transit should determine when insurance is required and include in any solicitation and contract document a clause informing contractors of the minimum coverage requirements required by federal or State statutes. When FTA grant funds are used, the minimum requirements shall be as follows:

(a) Contractor Insurance

The contractor shall, at all times during the term of this contract and extended terms thereof, provide and maintain the following types of insurance protecting the interests of Bis-Man Transit and the Bis-Man Transit Board, hereafter referred to as Bis-Man Transit, et al for the remainder of this section, and the Contractor with limits of liability not less than those specified below.

(1) Workers Compensation Insurance**

Providing Statutory Benefits under the Workers Compensation Act of the State of North Dakota and/or any other state or federal law or laws applicable to the Contractor employees performing work under this contract.

(2) Employers Liability Insurance**

With limits of liability not less than \$500,000.00 for each accident, \$500,000.00 for each employee for disease and \$500,000.00 policy limit for disease.

****This insurance must be endorsed with a Waiver of Subrogation Endorsement, waiving the right of recovery for the insured under subrogation or otherwise from Bis-Man Transit et. al.**

(3) Commercial General Liability

Coverage shall carry at least limits of \$500,000.00 for each occurrence of bodily injury and property damage with a general aggregate of \$1,000,000.00 and a products and completed operations aggregate of \$1,000,000.00.

There shall not be any policy exclusions or limitations for contractual liability covering the Contractor obligations herein; personal injury/advertising liability; explosion, collapse and underground property damage hazards; medical payments; fire damage; legal liability; broad form property damage; liability for independent contractors.

(4) Comprehensive Automobile Liability Insurance

Covering all owned, hired and non-owned vehicles used in connection with the work performed under this contract with limits of liability not less than \$1,000,000.00 combined single limit.

(5) Builders Risk Insurance

Against all risks of direct physical loss shall be obtained by the Contractor in an amount of insurance equal at all times to the replacement cost value of all materials on site, in transit, installed, at temporary locations elsewhere, and labor performed. The policy to be insured jointly in the names of the Contractor and Bis-Man Transit et al.

(6) Umbrella Liability

Covering General Liability, Automobile Liability and Employer Liability with limits of not less than \$2,000,000.00.

(7) Certificates of Insurance

Before commencing with this contract, the Contractor shall mail Certificates of Insurance satisfactory to Bis-Man Transit et al (or, as and when Bis-Man Transit et. al may direct, copies of the actual insurance policies) at the following address:

Bis-Man Transit

3750 East Rosser Avenue
Bismarck, ND 58501
ATTN: Executive Director

Certificates from each insurance company evidencing that insurance required by paragraph a, sections 1-5 above are in force, stating policy numbers, dates of expiration, and limits of liability thereunder. All copies of policies and Certificates of Insurance submitted to Bis-Man Transit et al shall be in form and content acceptable to Bis-Man Transit et al.

(8) Approval of Forms and Companies

All insurance described in this contract shall be written by an insurance company or companies satisfactory to Bis-Man Transit et. al and licensed to do business in North Dakota and shall be in form and content satisfactory to Bis-Man Transit et. al. No party subject to the provisions of this contract shall violate or knowingly permit to be violated any of the provisions of the policies of insurance described herein. Except as may otherwise specifically be provided herein to the contrary, all policies of insurance which are in any way related to the work required by this contract shall be endorsed waiving the issuing insurance company's rights of recovery against Bis-Man Transit et al, whether by way of subrogation or otherwise. All insurance should be provided by insurance companies with a current Best's Rating of A- or better.

(9) Additional Insured Endorsement

The policy or policies providing Commercial General Liability, Automobile Liability, Employer Liability and Umbrella Liability coverage and as required above shall be endorsed to name the Bis-Man Transit et al. Additional Insured with respect to operations performed by or on behalf of the Contractor in performance of this contract. The policy shall be endorsed so the Contractor insurance is primary to all programs of insurance and self-insurance carried by Bis-Man Transit et al.

(10) Notice of Cancellation or Material Change

Policies and/or certificates shall specifically provide thirty (30) day written notice of cancellation, non-renewal, or material change to be sent to Bis-Man et al. In the event of cancellation of any policy and/or certificate for nonpayment of premium, Bis-Man Transit et al reserves the right, but is not obligated to pay this premium, and to deduct this cost from final payment to the Contractor for services rendered.

(11) Subcontractors

If any part of the work is sublet, the Contractor shall require any and all subcontractors performing work under this contract to carry insurance of the types and with limits of liability as the Contractor shall deem appropriate and adequate. In the event a subcontractor is unable to furnish adequate insurance required under the contract, the Contractor shall endorse the subcontractor as an Additional

Insured. The Contractor shall obtain and furnish Bis-Man Transit et al certificates of insurance evidencing the subcontractor's insurance coverage.

(12) Multiple Policies

The limits of liability as required above may be provided by a single policy of insurance or a combination of primary, excess or umbrella liability policies. In no event shall the total limit of liability for any one occurrence or accident be less than the amounts shown above.

(13) Deductibles

Companies issuing the insurance policies and the Contractor shall have no recourse against Bis-Man Transit et al for payment of any premiums or assessments for any deductibles, as all such premiums and deductibles are the sole responsibility and risk of the Contractor.

(14) OSHA and Other Regulations

The Contractor shall be responsible for compliance with all safety rules and regulations of the Federal Occupational Safety and Health Act of 1990 and those of all applicable state and local laws or regulations during the conduct of and the Contractor's performance of this contract. The Contractor shall indemnify Bis-Man et al for all fines, penalties and corrective measures that result from the acts of commission or omission of the Contractor, its subcontractors, if any, agents, employees and assignees and their failure to comply with such safety rules and regulations.

Bis-Man Transit, as contract administrator, shall assure a current certificate is on file at all times during performance of the contract.

10.9 Prohibited or Restricted Contract Types

The Common Grant Rule provides more guidance to the Transit System, on prohibited or restricted contract types. The following contract types are restricted or prohibited:

(1) Cost Plus a Percentage of Cost – Prohibited

Pursuant to the Common Grant Rules, Bis-Man Transit shall not use cost plus a percentage of cost plus a percentage of construction cost methods of contracting.

(2) Time and Materials – Restricted

Pursuant to the Common Grant Rules, Bis-Man Transit shall be permitted to use the time and material contracts only if the following conditions are met:

- a. Permitted to Use, Bis-Man Transit has determined no other contract type is suitable; and

(3) Firm Ceiling Price

If the contract specifies a ceiling price the contractor may not exceed except at its own risk.

10.10 Revenue Contracts

Revenue contracts are those third party contracts whose primary purpose is to either generate revenues in connection with a transit related activity, or to create business opportunities utilizing an FTA-funded asset. FTA requires these contracts to be awarded utilizing competitive selection procedures and principles. In accordance with FTA Circular 4220.1 F section 7(n) as amended, the extent of and type of competition required is within the discretionary judgment of the Executive Director. Any Revenue contract which is expected to exceed \$10,000 annually will require approval from the Board. Revenue contracts may have a period of performance beyond 5 years if Bis-Man Transit believes it is in Bis-Man Transit's best interest. (Reason will be documented and contained in the procurement file.)

10.11 Contract Termination Provisions

All contracts over \$10,000.00 shall contain provisions for termination for cause and for convenience by Bis-Man Transit including the manner by which it will be affected and the basis for settlement.

For all contracts in excess of the small purchase threshold, there shall be administrative, contractual or legal remedies in instances where contractors violate or breach the contract terms, including sanctions and penalties as may be appropriate.

The performance of work under a contract containing such provisions may be terminated in part or in whole when staff, in consultation with the Executive Director, the Board, and Legal Counsel (when sought), determines that such termination is in the best interests of Bis-Man Transit. Contracts may be terminated for convenience (i.e., a reduced need or otherwise in the best interests of Bis-Man Transit) or for default (i.e., the contractor has filed to perform under the contract requirements). Contractors will not be granted the right of termination.

When the decision to terminate is made, a "Notice of Termination" shall be sent by the Executive Director to the contractor by certified mail, with a return receipt requested. The Notice of Termination shall specify the reason for termination, the extent to which the performance of work is terminated (i.e., in whole or in part), and the day upon which such termination becomes effective. Settlement of claims shall be made as soon as possible after the issuance of a Notice of Termination/Default to protect the interests of and minimize the liability of Bis-Man Transit. When settlement cannot be made, Bis-Man Transit shall reserve the right to issue a determination of the amount due consistent with the termination clause and applicable cost principles, subject to appeal under the

disputes provisions of the contract.

Bis-Man Transit will consider a no-cost settlement instead of issuing a termination notice when it is known the contractor will accept one, Bis-Man Transit property was not furnished, and there are no outstanding payments, debts due Bis-Man Transit, or other contractor obligations to Bis-Man Transit.

10.12 Buy America Provisions

Procurements involving the purchase of iron, steel and manufactured goods will be subject to the “Buy America” requirements in 49 *CFR* Part 661.

All Bis-Man Transit procurements in excess of \$150,000.00 are subject to the Buy America regulation, which requires that all steel and manufactured products (and cement in construction) have 100% U.S. content and be manufactured in the United States. There are special provisions relating to purchase of buses and communications equipment which require seventy percent (70%) content and final assembly in the United States. In purchasing buses, Bis-Man Transit is required (49 *CFR* Part 663) to conduct a pre-award and post-delivery audit of the manufacturer’s Buy America certification.

49 *CFR* § 661.13(b) requires Bis-Man Transit include a requirement in the solicitation, as a condition of responsiveness, the bidder submit with the bid a completed Buy America certificate in accordance with 49 *CFR* § 661.6 or §661.12, as applicable. There are three implications of this requirement:

- (1) If the certifications are not completed and submitted with the bid, the bid is non-responsive and cannot be considered. Bis-Man Transit cannot go back and ask, in a competitively sealed bidding procurement, for the bidder to complete the certification and submit it after bids are received.
- (2) However, the bidder certifies with its bids (whether or not it will be bound by the applicable requirement), it is bound by that certification and cannot change it after bid opening.
- (3) If the bidder certified it will comply with all the applicable Buy America requirements, it will not be eligible later for a waiver of those requirements.

Buy America Certification forms will be included with each IFB or RFP solicitation and will be required to be executed and submitted with a bid or proposal. Purchases made using small purchase procedures are most often made under a purchase order, in order to set up the account payable. A Bis-Man Transit purchase order states conditions of purchase, including Buy America requirements. It is a condition of the Bis-Man Transit purchase order, when accepting the order, the vendor certifies Buy America requirements are met. In those few instances where a purchase order is not used, Bis-Man Transit will furnish a certification form to the vendor for execution. Once a certification is received from a

vendor for a particular item, it is not necessary to require receipt of a certification for each subsequent purchase provided there is a certification on file for that item.

If a waiver for the Buy America requirements is sought, the following is the process to be followed:

Applications for waivers are processed in accordance with the provisions of 49 *CFR* §661.9. The waiver must be obtained “in a timely manner” through Bis-Man Transit. A Bis-Man Transit request for waiver must be made in writing, and should include all facts and justification to support the waiver, and be submitted to the FTA Administrator through the appropriate FTA Regional Office. The Administrator (or Regional Administrator, in cases where authority has been delegated) will issue a written determination setting forth the reasons for granting or denying the exception request.

10.13 Lobbying Restrictions

The lobbying requirements apply to all contracts and subcontracts of \$100,000 or more at any tier under a Federal grant. If any funds other than Federal 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 any contract of \$100,000 or more, the payor must complete and submit the Standard Form, “Disclosure Form to Report Lobbying,” in accordance with its instructions.

10.14 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 C.F.R. § 26.49 requires the TVM to submit a certification that it has complied with FTA’s DBE requirements. FTA’s website contains a list of current certified TVMs and it is a best practice to confirm a TVMs certification with the list. If the TVM is not the site list, the Region 8 civil rights officer before awarding the contract.

10.15 Debarment and Suspension (SAM.gov)

It is the responsibility of Bis-Man Transit to check SAM.gov to ensure that the bidder has been deemed responsible and does not appear on the declined or suspended list.

10.16 Federal Provisions and Required Contract Clauses

When federal operating or capital funds are used in a purchase, certain solicitation provisions and required contract clauses must be incorporated in the Bis-Man Transit solicitation and award. These requirements are stated in the Bis-Man Transit FTA Master Agreement, FTA Circulars, and in the various regulations. Some provisions and clauses apply only over certain contract dollar thresholds, and some apply separately to construction and non-construction contracts. A separate contract administrator manual includes these provisions and required clauses.

When including “boilerplate” provisions and contract clauses in an IFB or RFP, the Executive Director will separately reference in bid instructions those provisions and/or clauses which are not applicable to the procurement, and will cross out and initial those inapplicable sections of the “boilerplate” document which is included in the solicitation.

APPENDIX A
SOLICITATION FILE CHECKLIST

Solicitation No.	
Title	
Issue Date	
SOLICITATION DOCUMENTATION	NOTES
Legal Notices	
Posting to Website	
Solicitation	
Independent Cost Estimate	
Vendor List	
Pre-Proposal and Pre-Bid Meeting Documentation	
Amendments and Clarifications	
Record of Approved Equal Status Requests	
Bid Opening Record	
Request for Best and Final Offers	
All Bids and Proposals received (on time)	
OFFER EVALUATION DOCUMENTATION	
Responsiveness	Responsiveness cont'd
Completed and Signed Solicitation/Award	Buy America certification, as applicable
Completed pricing schedule	Bid Bond, as applicable
Acknowledge of Amendments, as applicable	Certificate of Insurance and Insurance Verification
Representations and Certifications complete	Vendor Profiles
DBE Forms	Excluded Parties List verification DBE Participation Goal Verification
Technical Evaluation Panel Reports	Record of Proposer interviews, questions and answers
Record of Past Performances and Verification	Documentation of Reason for Selection or Rejection of an Offer
Record of Financial Capacity	Notice of Solicitation Cancellation, if applicable
Cost or Price analysis	Award Recommendation

APPENDIX B
CONTRACT FILE CHECKLIST

CONTRACT NO.	CONTRACTOR
AWARD DATE	EXPIRATION DATE
CONTRACT DOCUMENTATION	NOTES
Procurement summary, for base contract award, modifications, and contract extensions	
Executed contract	
Notice to Award	
Notice to Proceed	
Executed Contract Modifications (change orders)	
Documentation of Executed Contract Modifications,	
Documentation of the Requirement	
Sole source justification	
Record of Negotiations	
Independent Cost Estimate	
Cost or Price Analysis	
Record of approval at appropriate level	
Record of Funding	
Interested Parties Correspondence	
Internal correspondence, substantiating contract actions or deemed appropriate	
Copy of Bonds, as applicable	
Copy of current Certificate of Insurance	
Completed Contract Closeout Checklist	
Accepted Offer	

APPENDIX C
METHODS OF PROCUREMENT – QUICK REFERENCE

Method	Micro Purchases	Small Purchase (supplies, equipment, services)	Sealed Bids (construction. Supplies, equipment, non-professional services)	Competitive Proposals (supplies, equipment, services)	Non-Competitive (Single or Sole Source)
Threshold	Up to \$10,000	More than \$10,000 up to \$50,000	More than \$50,000 New equipment valued greater than \$25,000 requires City approval	More than \$100,000, if higher than \$10,000 requires Board approval, New equipment valued greater than \$25,000 requires City approval	More than \$25,000, if higher than \$10,000 requires Board approval, New equipment valued greater than \$25,000 requires City approval
Planning	None, unless construction over \$2,000	Purchase Requisition, Technical Specification or Scope of Work, cost estimate, DBE Goal	Purchase Requisition, specification, vendor list, independent cost estimate, DBE Goal, Insurance requirements, schedule	Purchase Requisition, specification, vendor list, independent cost estimate, DBE Goal, Insurance requirements, schedule	Documented justification, Purchase Requisition, Specification or Scope of Work, independent cost estimate, Insurance requirements
Obtain Quotes / Bids / Proposals	At least ONE Quote in writing OR may be off-the shelf pricing for retail items	Scope of Work Reasonable number of Written Quotes (a minimum of three quotes, more if the market permits) Established Evaluation Criteria, Factors, and Relative Importance	IFB, Specification Publicly Advertised, Adequate number of known suppliers, Formal Sealed Bid, Open Bids Publicly	RFP, Scope of Work, Performance or Functional Specification, Advertise, Adequate number of qualified sources, Written Proposal Discussions Expected, BAFO	Only One Reasonably Available Supplier/Contractor, Written Proposal, Acknowledgement and Acceptance of FTA clauses, Completion of Representations and Certifications
Award Purchase Order/ Contract	Single Quote No Competition	Requires Competition Awarded to "Best Value" (usually low Bid)	Firm Fixed Price Awarded to Lowest Responsive and Responsible Bidder. Any and all bids may be rejected	Requires Competition Usually awarded to Best Value (best combination of meeting technical needs and price)	Written Justification, Available only from one known source

APPENDIX C (CONTINUED)
METHODS OF PROCUREMENT – QUICK REFERENCE

Method	Micro Purchases	Small Purchase (supplies, equipment, services)	Sealed Bids (construction, Supplies, equipment, non-professional services)	Competitive Proposals (supplies, equipment, services)	Non-Competitive (Single or Sole Source)
Determination of Fair and Reasonable Price	Description of how price is fair and reasonable	Price Analysis	Low Bid	Price Analysis, if adequate competition exists, otherwise Cost Analysis required	Cost Analysis Required, unless basis is catalog or market price of commercial product
Bonding Requirements	Not Required	Not Required	Required for construction Contracts over \$100,000	Usually not required	Required for construction Contracts over \$100,000
Davis-Bacon Wage Rates	Construction contracts over \$2,000	Construction Contracts	Construction Contracts	Construction Contracts	Construction contracts over \$2,000
Buy America Certification	Exempt	Exempt	Required if over \$150,000	Required if over \$150,000	Required if over \$150,000
Excluded Parties List Verification	Not Required	Required if \$25,000 or higher	Required	Required	Required if \$25,000 or higher
Documentation of Rationale / Basis for Award	e.g. "Purchased at off the shelf pricing"	Historical Data or written summary (Findings of Fact)	Written Summary	Written Summary (Findings of Fact and Record of Negotiations)	Written Summary (Findings of Fact and Record of Negotiations)

APPENDIX D
PROVISIONS. CERTIFICATIONS, REPORTS, FORMS, AND OTHER-MATRICES

APPLICABILITY OF THIRD PARTY CONTRACT PROVISIONS

(Excluding micro-purchases, except Davis-Bacon requirements apply to contracts exceeding \$2,000)

TYPE OF PROCUREMENT					
PROVISION	Professional Services / A&E	Operations / Management	Rolling Stock Purchase	Construction	Materials & Supplies
No Federal Government Obligation to Third Parties (by Use of a disclaimer)	All	All	All	All	All
False Statements or Claims Civil and Criminal Fraud	All	All	All	All	All
Access to Third Party Contract Records	All	All	All	All	All
Changes to Federal Requirements	All	All	All	All	All
Termination	>\$10,000 if 49 CFR Part 18 Applies	>\$10,000 if 49 CFR Part 18 Applies	>\$10,000 if 49 CFR Part 18 Applies	>\$10,000 if 49 CFR Part 18 Applies	>\$10,000 if 49 CFR Part 18 Applies
Civil Rights (Title VI, EEO, ADA)	>\$10,000	>\$10,000	>\$10,000	>\$10,000	>\$10,000
Disadvantaged Business Enterprises (DBEs)	All	All	All	All	All
Incorporation of FTA Terms	All	All	All	All	All
Debarment and Suspension	>\$25,000	>\$25,000	>\$25,000	>\$25,000	>\$25,000
Buy America			>\$150,000	>\$150,000	>\$150,000
Resolution of Disputes, Breaches, or Other Litigation	>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000
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

APPENDIX D (CONTINUED)
PROVISIONS, CERTIFICATIONS, REPORTS, FORMS, AND OTHER-MATRICES

APPLICABILITY OF THIRD PARTY CONTRACT PROVISIONS

(Excluding micro-purchases, except Davis-Bacon requirements apply to contracts exceeding \$2,000)

TYPE OF PROCUREMENT					
PROVISION	Professional Services / A&E	Operations / Management	Rolling Stock Purchase	Construction	Materials & Supplies
Cargo Preference			For property transported by ocean vessel	For property transported by ocean vessel	For property transported by ocean vessel
Fly America	For foreign air transport or travel	For foreign air transport or travel	For foreign air transport or travel	For foreign air transport or travel	For foreign air transport or travel
Davis-Bacon Act				>\$2,000	
Contract Work Hours and Safety Standards Act		>\$100,000 (except Transportation services)	>\$100,000	>\$100,000 (including ferry vessels)	
Copeland Anti-Kickback Act Section 1 Section 2				All exceeding \$2,000 (including ferry vessels)	
Bonding				\$100,000	
Seismic Safety	A&E for New Buildings & Additions				
Transit Employee Protective Arrangements		Transit Operations			
Charter Service Operations		All			
School Bus Operations		All			
Drug Use and Testing		Transit Operations			
Alcohol Misuse and Testing		Transit Operations			
Patent Rights	Research & Development				

APPENDIX D (CONTINUED)
PROVISIONS, CERTIFICATIONS, REPORTS, FORMS, AND OTHER-MATRICES

APPLICABILITY OF THIRD PARTY CONTRACT PROVISIONS

(Excluding micro-purchases, except Davis-Bacon requirements apply to contracts exceeding \$2,000)

TYPE OF PROCUREMENT					
PROVISION	Professional Services / A&E	Operations / Management	Rolling Stock Purchase	Construction	Materials & Supplies
Rights in Data and Copyright Requirements	Research & Development				
Energy Conservation	All	All	All	All	All
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
Conformance with ITS National Architecture	ITS Projects	ITS Projects	ITS Projects	ITS Projects	ITS Projects
ADA Access	A&E	All	All	All	All
Notification of Federal Participation for States	Limited to States	Limited to States	Limited to States	Limited to States	Limited to States

EXHIBIT E

FTA CONTRACT CLAUSES	COMMENTS	MASTER AGREEMENT REFERENCE	"x" – Included "na" – Not Applicable
<i>No Federal government obligations to third-parties by use of a disclaimer</i>	<i>All contracts over \$3,000</i>	<i>§2.f</i>	
<i>Program fraud and false or fraudulent statements and related acts</i>	<i>All contracts over \$3,000</i>	<i>§3.f</i>	
<i>Access to Records</i>	<i>All contracts over \$3,000</i>	<i>§15.t</i>	
<i>Federal changes</i>	<i>All contracts over \$3,000</i>	<i>§2.c(1)</i>	
<i>Civil Rights (EEO, Title VI & ADA</i>	<i>All contracts over \$3,000</i>	<i>§12</i>	
<i>Incorporation of FTA Terms</i>	<i>All contracts over \$3,000</i>	<i>§15.a</i>	
<i>Energy Conservation</i>	<i>All contracts over \$3,000</i>	<i>§26</i>	
<i>Termination provisions</i>	<i>All contracts over \$10,000</i>	<i>§11</i>	
<i>Debarment and Suspension</i>	<i>All contracts over \$25,000</i>	<i>§3.b</i>	
<i>Buy America</i>	<i>When tangible property or construction will be acquired. All contracts over \$150,000</i>	<i>§14.a</i>	
<i>Provisions for resolution of disputes, breaches, or other litigation</i>	<i>All contracts over \$100,000</i>	<i>§56</i>	
<i>Lobbying</i>	<i>All contracts over \$100,000</i>	<i>§3.d</i>	
<i>Clean Air</i>	<i>All contracts over \$100,000</i>	<i>§25.b</i>	
<i>Clean Water</i>	<i>All contracts over \$100,000</i>	<i>§25.c</i>	
<i>Cargo Preference</i>	<i>When acquiring property suitable for shipment by ocean vessel. All contracts over \$100,000</i>	<i>§14.b</i>	
<i>Fly America</i>	<i>When property or persons transported by air between U.S. and foreign destination, or between foreign location. All contracts over \$100,000</i>	<i>§14.c</i>	
<i>Davis Bacon Act</i>	<i>Except for contracts less than \$2,000 or third party contracts for supplies, materials, or articles ordinarily available on the open market</i>	<i>§24.a</i>	
<i>Copeland Anti-Kickback Act Section 1 Section 2</i>	<i>All Construction Contracts over \$2,000</i>	<i>§24.a</i>	
<i>Contract Work Hours & Safety Standards Act</i>	<i>All Construction Contracts over \$2,000</i>	<i>§24.a</i>	

FTA CONTRACT CLAUSES	COMMENTS	MASTER AGREEMENT REFERENCE	"x" – Included "na" – Not Applicable
<i>Bonding for construction activities exceeding \$100,000</i>	5% bid guarantee; 100% performance bond; and Payment bond equal to: <ul style="list-style-type: none"> • 50% for contracts < \$1 M • 40% for contracts > \$1 M, but < \$5 M • \$2.5 M for contracts > \$5 M 	§15.o(1)	
<i>Seismic Safety</i>	<i>All Contracts for construction of new buildings or additions to existing buildings</i>	§23.e	
<i>Nonconstruction Employee Protection (Contract Work Hours and Safety Standards Act)</i>	<i>Applicable to all turnkey, rolling stock and operational contracts (excluding contracts for transportation services) over \$100,000</i>	§24.b	
<i>Transit Employee Protective Arrangements</i>	<i>Applies to Section 5307, 5309, 5311 and 5316 funded operations contracts</i>	§24.d	
<i>Charter Service Operations</i>	<i>All operations contracts</i>	§28	
<i>School Bus Operations</i>	<i>All operations contracts</i>	§29	
<i>Drug and Alcohol Testing</i>	<i>Safety sensitive functions. Applies to Sections 5307, 5309 and 5311 operations contracts</i>	§32.b	
<i>Patent Rights</i>	<i>R&D contracts</i>	§17	
<i>Rights in Data and Copyrights</i>	<i>R&D contracts</i>	§18	
<i>Disadvantaged Business Enterprises (DBEs)</i>	<i>Contracts awarded on the basis of a bid or proposal offering to use DBEs</i>	§12.d	
<i>Prompt Payment and Return of Retainage</i>	<i>Per 49 CFR Part 26, if grantee meets the threshold for a DBE program</i>	§12.d	
<i>Recycled Products</i>	<i>Contracts for items designated by EPA, when procuring \$10,000 or more per year</i>	§15.k	
<i>ADA Access</i>	<i>Contracts for rolling stock or facilities construction/ renovation</i>	§12.g	
<i>Assignability Clause</i>	<i>Piggyback procurements</i>	§15.a	
<i>Special Notification Requirements for States</i>	<i>Applies to contracts awarded by states</i>	§38	
<i>Bus Testing Certification and Report</i>	<i>Obtain prior to award Procurements of buses and modified mass produced vans</i>	§15.n(4)	
<i>TVM Certifications</i>	<i>Obtain prior to award Procurements of buses and modified mass produced vans</i>	§12.d(1)	
<i>Buy America Certification</i>	<i>Obtain signed certification with bid or proposal Procurements of steel, iron or manufactured products over \$150,000</i>	§14.a	
<i>Pre-Award Audit</i>	<i>Obtain prior to award Rolling stock procurements over \$100,000</i>	§15.n(3)	

FTA CONTRACT CLAUSES	COMMENTS	MASTER AGREEMENT REFERENCE	"x" – Included "na" – Not Applicable
<i>Pre-Award Buy America Certification</i>	<i>Sign prior to award Rolling stock procurements over \$100,000</i>	<i>§15.n(3)</i>	
<i>Pre-Award Purchaser's Requirement Certification</i>	<i>Sign prior to award Rolling stock procurements</i>	<i>§15.n(3)</i>	
<i>Post-Delivery Audit</i>	<i>Obtain prior to acceptance Rolling stock procurements over \$100,000</i>	<i>§15.n(3)</i>	
<i>Post-Delivery Buy America Certification</i>	<i>Sign prior to acceptance Rolling stock procurements over \$100,000</i>	<i>§15.n(3)</i>	
<i>Post-Delivery Purchaser's Requirement Certification</i>	<i>Sign prior to acceptance Rolling stock procurements</i>	<i>§15.n(3)</i>	
<i>Contract Administration System</i>	<i>Verify prior to contract award</i>	<i>Ch. III, §3</i>	
<i>Record of Procurement History</i>	<i>Verify prior to payment The file contains a complete procurement history.</i>	<i>Ch. III, §3.d(1)</i>	
<i>Protest Procedures</i>	<i>Verify prior to solicitation</i>	<i>Ch. VII, §1</i>	
<i>Selection Procedures</i>	<i>Verify prior to solicitation The procurement contains a description of contractor selection method.</i>	<i>Ch. III, §3d(1)(c)</i>	
<i>Independent Cost Estimate</i>	<i>Verify prior to solicitation The procurement contains a description of contractor selection method</i>	<i>Ch. VI, §6</i>	
<i>Cost/Price Analysis</i>	<i>Verify prior to award A cost or price analysis is in the procurement file</i>	<i>Ch. VI, §6</i>	
<i>Responsibility Determination</i>	<i>Verify prior to award A contractor responsibility determination is in the procurement file</i>	<i>Ch. VI, §8.b</i>	
<i>Justification for Noncompetitive Awards</i>	<i>Verify prior to award If applicable</i>	<i>Ch. VI, §3.i(1)(b)</i>	
<i>No excessive bonding requirements</i>	<i>Verify prior to solicitation If applicable</i>	<i>Ch. VI, §2.h(1)(f)</i>	
<i>No exclusionary specifications</i>	<i>Verify prior to solicitation</i>	<i>Ch. VI, §2.a(4)</i>	
<i>No geographic preferences</i>	<i>Verify prior to solicitation Except for A&E services</i>	<i>Ch. VI, §2.a(4)(g)</i>	
<i>Evaluation of Options</i>	<i>Verify prior to award If applicable</i>	<i>Ch. VI, §7.b</i>	
<i>Exercise of Options</i>	<i>Verify prior to award If applicable</i>	<i>Ch. V, §7.a</i>	
<i>On-Site Inspector's Report</i>	<i>Obtain prior to acceptance Rolling stock procurements for more than 10 vehicles for areas greater than 200,000 in population and 20 for areas less than 200,000 in population</i>	<i>§15.n(3)</i>	

FTA CONTRACT CLAUSES	COMMENTS	MASTER AGREEMENT REFERENCE	"x" – Included "na" – Not Applicable
<i>Federal Motor Vehicles Safety Standards Pre-Award and Post-Delivery Certification</i>	<i>Obtain prior to award and then sign prior to acceptance Rolling stock procurements</i>	<i>§15.n(3)</i>	
<i>Excluded Parties Listing System search</i>	<i>Perform prior to award Procurements greater than \$25,000</i>	<i>§3.b</i>	
<i>Lobbying Certification</i>	<i>Obtain signed certification with bid or proposals Procurements greater than \$100,000</i>	<i>§3.d(1)</i>	
<i>Standard Form LLL and Quarterly Updates (when required)</i>	<i>Obtain prior to award Procurements greater than \$100,000 where contractor engages in lobbying activities</i>	<i>§3.d(1)</i>	

APPENDIX F
PRE-AWARD AND POST-DELIVERY VEHICLE AUDITS

Pre-Award Buy America:

PRE-AWARD BUY AMERICA COMPLIANCE CERTIFICATION

As required by Title 49 of the CFR, Part 663 – Subpart B, _____
(the recipient) is satisfied that the buses to be purchased, _____
(number and description of buses) from _____
(the manufacturer), meet the requirements of Section 165(b)(3) of the Surface Transportation Assistance Act
of 1982, as amended. The recipient, or its appointed analyst _____
(the analyst – not the manufacturer or its agent), has reviewed documentation provided by the manufacturer,
which lists (1) the proposed component and subcomponent parts of the buses identified by manufacturer,
country of origin, and cost; and (2) the proposed location of the final assembly point for the buses, including
a description of the activities that will take place at the final assembly point and the cost of final assembly.

Date: _____

Signature: _____ Title: _____

Pre-Award FMVSS Compliance Certification:

PRE-AWARD FMVSS COMPLIANCE CERTIFICATION

As required by Title 49 of the CFR, Part 663 – Subpart D, _____

(the recipient) certifies that it received, at the pre-award stage, a copy of

_____’s (the manufacturer) self-certification information stating that

the buses, _____ (number and description of buses), will comply with the

relevant Federal Motor Vehicle Safety Standards issued by the National Highway Traffic Safety

Administration in Title 49 of the Code of Federal Regulations, Part 571.

Date: _____

Signature: _____ Title: _____

Pre-Award Purchasers Requirements Certification:

PRE-AWARD PURCHASER'S REQUIREMENTS CERTIFICATION

_____ (the recipient) certifies that the buses to be purchased, _____ (number and description of buses) from _____ (the manufacturer), are the same product described in the recipient's solicitation specification and that the proposed manufacturer is a responsible manufacturer with the capability to produce a bus that meets the specifications.

Date: _____

Signature: _____ Title: _____

Vehicle Acceptance Inspection Checklist:

Exterior Body

	P	F
Panel Fit	___	___
Window Fit	___	___
Door Fit	___	___
Paint Finish	___	___
Door Operation	___	___
Mud Flaps	___	___
Sealer/Caulking	___	___
Proper Decals	___	___
Water Leaks	___	___
Block Heater Cord	___	___

Exterior Lights

	P	F
Low Headlights	___	___
High Headlights	___	___
Day Running	___	___
Parking Lights	___	___
Clearance Lights	___	___
Brake Lights	___	___
Reverse Lights	___	___
Turn Signals	___	___
Hazards/Flashers	___	___
Entrance Doors	___	___
Reflectors	___	___

Fluid Levels

	P	F
Antifreeze	___	___
A.freeze Protection	___	___
Power Steering	___	___
Washer Fluid	___	___
Engine Oil	___	___
Transmission Fluid	___	___
Brake Fluid	___	___
Tire Pressure	___	___

Lube and Adjust

	P	F
Door Hinges	___	___
Door Seals	___	___
Door Locks	___	___
Doors Push Shut	___	___
Emergency Releases	___	___
Mirrors	___	___
Battery Cables	___	___
Battery Box Door	___	___
Windows	___	___

Interior Lights

	P	F
Drivers Dome	___	___
Passengers Dome	___	___
Stepwell Lights	___	___
Side Door Interior	___	___
Instrument Panel	___	___
Indicator Lights	___	___
Light Monitor Opt	___	___
Intermotive Lights	___	___
Control Panel Lights	___	___

Safety Equipment

	P	F
First Aid Kit	___	___
Fire Extinguisher	___	___
Triangles	___	___
Flares	___	___
Body Fluid Cleanup	___	___
Seat Belt Cutters	___	___
Seat Belt Operation	___	___
All Seats Secure	___	___
Emergency Window	___	___
Roof Hatches	___	___
Mount Items	___	___

Under Inspection	P	F
Front Suspension	___	___
Rear Suspension	___	___
Brake Lines/Hoses	___	___
Exhaust System	___	___
Fuel Lines	___	___
Coolant Values	___	___
Lic. Plate Screws	___	___

Int. Accessories	P	F
Park Brake Light	___	___
Wipers	___	___
Horn	___	___

Heaters	P	F
Check Defrost	___	___
Check Lines	___	___

Prep for Delivery	P	F
Clean Inside	___	___
Clean Outside	___	___
Wax Floor	___	___
Inspections Done	___	___

Wheelchair Equipment	P	F
Brake Interlock	___	___
Lift Operation	___	___
Tie Downs	___	___
Lift Adjustment	___	___
Manual Operation	___	___

Interior Decals	P	F
Capacity	___	___
Exit Windows	___	___
Exit Door	___	___
Warning Signs	___	___

Wheelchair Securements	P	F
Bolt Spacing	___	___
Upper Body Straps	___	___

Road Test	P	F
Gauges	___	___
Steering	___	___
Alignment	___	___
Vibrations	___	___
Road Noise	___	___
Handling	___	___
Emergency Brake	___	___
A/C Operation	___	___
Heater Operation	___	___
Warning Lights Off	___	___
Warning Buzzers Off	___	___
Shift Quality	___	___

Inspector's Signature

Date

POST DELIVERY BUY AMERICA CERTIFICATION:

POST-DELIVERY BUY AMERICA COMPLIANCE CERTIFICATION

As required by Title 49 of the CFR, Part 663 – Subpart C, _____

(the recipient) certifies that it is satisfied that the buses received,

_____ *(number and description of buses) from*

_____ *(the manufacturer), meet the*

requirements of Section 165(b)(3) of the Surface Transportation Assistance Act of 1982, as amended. The

recipient, or its appointed analyst _____ (the analyst – not the

manufacturer or its agent), has reviewed documentation provided by the manufacturer, which lists (1) the

actual component and subcomponent parts of the buses identified by the manufacturer, country of origin,

and cost; and (2) the actual location of the final assembly point for the buses, including a description of the

activities that took place at the final assembly point and the cost of final assembly.

Date: _____

Signature: _____ Title: _____

POST-DELIVERY FMVSS CERTIFICATION:

POST-DELIVERY FMVSS COMPLIANCE CERTIFICATION

As required by Title 49 of the CFR, Part 663 – Subpart D, _____

(the recipient) certifies that it received, at the post-delivery stage, a copy of

_____’s (the manufacturer) self-certification information stating that the buses,

_____ (number and description of buses), comply with the

relevant Federal Motor Vehicle Safety Standards issued by the National Highway Traffic Safety

Administration in Title 49 Code of Federal Regulations, Part 571.

Date: _____

Signature: _____ Title: _____

POST DELIVERY PURCHASERS REQUIREMENT CERTIFICATION:

POST-DELIVERY PURCHASER'S REQUIREMENTS CERTIFICATION

As required by Title 49 of the CFR, Part 663 – Subpart C,

_____ *(the recipient)*

certifies that a resident inspector, _____ (the resident inspector

– not an agent or employee of the manufacturer), was at _____ 's

(the manufacturer) manufacturing site during the period of manufacture of the buses,

_____ *(number and description of buses). The inspector monitored*

manufacturing and completed a report on the manufacture of the buses providing accurate records of all bus

construction activities. The report addresses how the construction and operation of the buses fulfill the

contract specifications. After reviewing the report, visually inspecting the buses, and road testing the buses,

the recipient certifies that the buses meet the contract specifications.

Date: _____

Signature: _____ Title: _____

Date: _____

Bis-Man Transit delivers valued public transportation, linking people, jobs and communities.

Procurement Process Checklist

Bis-Man Transit Signature:

City of Bismarck Signature:

TO DO BEFORE THE PROCUREMENT PROCESS

- ____ Review procurement process and policies
- ____ Determine scope of procurement
- ____ Prepare a written **Independent Cost Estimate** and place in the procurement file
- ____ Identify who needs to be involved
- ____ Decide on the method of procurement: Informal quotations, RFQ, IFBG, or RFP

PROCUREMENT PACKAGE PREPERATION

- ____ Convene Review Committee
- ____ Develop draft RFQ, IFB, or RFP
- ____ Insert required FTA clauses and certifications into the procurement package (\$10,000+)
- ____ Develop technical specifications and/or Scope of Work
- ____ Identify potential bidders/proposers – Document and place in procurement folder
- ____ Develop evaluation process and criteria for RFQ and RFP procurements
- ____ Review protest procedures (these should be a part of the procurement package)
- ____ Finalize draft of procurement package (i.e., IFB, RFP, or RFQ)
- ____ Review and approval of procurement package

CONDUCTING THE PROCUREMENT

- ____ Finalize RFQ/IFB/RFP Package
- ____ Advertising and Notifying of potential bidders/proposers and place documentation in the procurement file
- ____ Conduct pre-bid or pre-proposal conference (optional)
- ____ Pre-bid/pre-proposal approved equals protests procedures (if applicable)
- ____ Bid/proposal deadline and acceptance

PRE-AWARD REVIEW AND CONCURRENCE PROCESS

- ____ Conduct bid opening or receive proposals
- ____ Prepare tabulation of bids (place documentation in the procurement file)
- ____ Reconvene review committee for RFPs or RFQs
- ____ Conduct evaluation process for RFPs or RFQs (place documentation in the procurement file)
- ____ Evaluate bids/proposals for required elements/responsiveness (place documentation in the procurement file)
- ____ Conduct **cost or price analysis** on responsive bids/proposals (place documentation in the procurement file)
- ____ Sole Source bids must include pricing justification and current price list
- ____ Check federal suspended or debarred contractor list (**SAM**) \$25,000+
- ____ Conduct **responsibility determination** (place documentation in the procurement file) \$10,000+
- ____ Conduct all pre-award activities and place signed certifications in the procurement file
- ____ Procurement Department review and approval
- ____ Review and approval of intent to award
- ____ Notify selected and rejected bidders/proposers
- ____ Handle intent to award protests using the local process

POST-AWARD AND POST-DELIVERY ACTIVITIES

- ____ Issue purchase order or contract to selected bidder/proposer. PO should include appropriate fed. clauses
- ____ Monitor contractor activities (if applicable)
- ____ Post-delivery inspection of capital equipment purchases (rolling stock, etc)
- ____ Complete and execute required post-delivery certification forms (if applicable)
- ____ Audit Post-Delivery Buy America Certifications (if applicable)
- ____ Acceptance, warranty and service arrangements made with contractor (if applicable)
- ____ Vehicle Title/Registration – Title must show grantee as lien holder (if applicable)
- ____ Contractor submission of required forms and certifications
- ____ Obtain verification of acceptance of the goods or services procured
- ____ Obtain approval for payment of the contractor invoice
- ____ Procurement Department review and approval
- ____ Verify payment to contractor



3750 E Rosser Avenue,
Bismarck, ND 58501



info@bismantransit.com



701.258.6817



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Responsibility Determination Checklist

Bidder/Proposer: _____

Description of Services/Goods: _____

Date: _____

For each of the areas described below, check that the appropriate research has been accomplished and provide a short description of the research and the results.		
Research	Acceptable	Comment
1. Appropriate financial, equipment, facility, and personnel	<input type="checkbox"/> Yes <input type="checkbox"/> No	
2. Ability to meet the delivery schedule.	<input type="checkbox"/> Yes <input type="checkbox"/> No	
3. Satisfactory period of performance	<input type="checkbox"/> Yes <input type="checkbox"/> No	
4. Satisfactory record of integrity, not on declined, disbarred, or suspended listings.	<input type="checkbox"/> Yes <input type="checkbox"/> No	
5. Receipt of all necessary data from Supplier.	<input type="checkbox"/> Yes <input type="checkbox"/> No	
6. Vendor has been deemed responsible and does not appear on the declined or suspended list as shown on www.sam.gov . Attach report.	<input type="checkbox"/> Yes <input type="checkbox"/> No	

Based upon the above information, I have determined that _____ is a responsible contractor for this procurement.

Signature _____

Title _____ Date _____



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Small Purchase Sole Source Justification Form

Section 1: Sub-Recipient Information

Name of Agency	Item Description/Project Name	Delivery/Completion Date
Name/Signature of Preparer	Total Estimated Price/Cost	Date of Estimate

Section 2: Sole Source Justification

Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under small purchase procedures and at least one of the following circumstances applies:

Item Description	
-------------------------	--

I, _____ certify that the reason, as noted below, for seeking a sole source justification for this procurement is accurate.

Check One:

- ☐ The item is available only from a single source (sole source justification is attached or described below in the "comments" section).
- ☐ The public urgent need or emergency for the requirement will not permit a delay resulting from the competitive solicitation (documented emergency condition is attached)
- ☐ FTA authorizes noncompetitive negotiations (letter of authorization is attached).
- ☐ After soliciting a number of sources, competition is determined to be inadequate (record of the sources solicited is attached).

Recommended Source:	
Price or Cost Analysis attached?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Comments:	

Bis-Man Transit Use Only

Approved by: _____ Date: _____



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INDEPENDENT COST ESTIMATE

(To be used for all procurements except micropurchases)
Need one form for each item being procured.

AGENCY

PROJECT AUTHORIZATION (Leave this field blank if a project authorization has not been awarded for this procurement.)

ITEM BEING PROCURED

COST ESTIMATE

Estimate was obtained using the following process:

- ☐ Published price list (e.g., catalogs).
- ☐ Past pricing. Previous purchase date for similar item: _____
- ☐ Engineering or technical estimate.
- ☐ Item is a standard commercial item sold in the open marketplace.
- ☐ Analysis of price components against current published standards, such as labor rate, cost per unit, etc.
- ☐ Other (please describe) _____

SIGNATURE

DATE



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Bismarck, ND 58501



info@bismantransit.com



701.258.6817



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**Certification Regarding
Debarment, Suspension, and Other Responsibility Matters
Primary Covered Transactions**

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 13 CFR Part 145. The regulations were published as Part VII of the May 26, 1988 Federal Register (pages 19160-19211). Copies of the regulations are available from local offices of the U.S. Small Business Administration.

(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS BELOW)

- 1) The prospective primary participants certified to the best of its knowledge and belief that it and its principals:
 - a) Are not presently debarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract 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) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
 - d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default.

- 2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective primary participant shall attach an explanation to this proposal.

Business Name: _____

Date: _____ By: _____

Name and Title of Authorized Representative

Signature of Authorized Representative

INSTRUCTIONS FOR CERTIFICATION

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.

2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

4. The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

5. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is submitted for assistance in obtaining a copy of those regulations (13 CFR Part 145).

6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transactions," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the ineligibility of its principals. Each participant may, but is not required to, check the Non-procurement List.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

**CERTIFICATION
OF
RESTRICTIONS ON LOBBYING**

I, _____, hereby certify on behalf of
_____ that:

(1) No Federal 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 any 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.

(2) If any funds other than Federal 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, and officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contact, grant, loan, or cooperative agreement the undersigned shall complete and submit Standard Form-LLL "Disclosure Form to Report Lobbying", in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grant, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is material representation of fact upon which reliance is placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31 U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Executed this _____ day of _____.

By: _____

MICRO PROCUREMENT FILE CHECKLIST

Instructions for Use

Use this checklist for ensuring that individual procurement files comply with appropriate Federal and local record-keeping requirements for all grants that run through NDDOT, including 5310 and 5339 grants. COMPLETE IN CHRONOLOGICAL ORDER! The fields identified are not intended to be all inclusive and may not be required for all Micro Purchases. The recipient must determine which fields are appropriate for the procurement and may add fields to collect information required by local procedures. The checklist must be signed and dated by the individual compiling the procurement file.

NOTE: Your procurement may be deemed invalid by NDDOT if you do not allow the NDDOT Transit Section adequate time to review document throughout the procurement process.

1. Written History of Procurement includes the reason and source of funding for the procurement including Grant number and ALI code.
2. Insert any pertinent specifications, drawings, or technical documents.
3. Insert the Sole Source justification (if applicable). SFN 51403 Alternate Procurement (AP) Request must be completed and submitted to transitnd@nd.gov.
4. Insert any pertinent Wage Determinations. Required if purchase is over \$2,000 and includes labor.
5. Insert pertinent Market Research documents (if any).
6. Insert Bidders List.
7. Insert any supporting documents such as quotes received (telephone or email), hard-copy catalog or Internet-based search pages, price lists, etc., which are not already attached to #9. Cost or Price Analysis.
8. Insert Cost/Price Analysis.
9. Insert vendor responsibility determinations. Check OMB's list of debarred and suspended vendors and Secretary of State Vendor Registry. Documentation must be uploaded showing date checked.
10. Insert any negotiation memorandum (if applicable).
11. Insert the required NDDOT approvals. Failure to get approval before issuing a PO may result in NDDOT not reimbursing the procurement.
12. Insert a copy of the Board's approval for the procurement (if applicable).
13. Insert Federal Clauses and Certifications (use [ProcurementPRO \(nationalrtap.org\)](http://ProcurementPRO(nationalrtap.org))).
14. Insert any record of the "Notice to Proceed" (if applicable).
15. Insert any protests submitted and resolution.
16. Insert Purchase Order and any modifications to the Purchase Order.
17. Insert any applicable Invoices, Payment Vouchers, and Capital Reimbursement Request
18. Insert documentation that asset has been added to BlackCat Inventories for all assets greater than \$5,000.
19. Insert any pertinent correspondence between recipient and supplier.

PROCUREMENT HISTORY FILE CHECKLIST
(COMPLETE IN CHRONOLOGICAL ORDER)

Method of Procurement: MICRO – Less than \$10,000

FUNDING SOURCE: (Select all that apply)

5310	5311	5339	STATE AID	OTHER: (Describe)

CONTRACT/PURCHASE ORDER NUMBER		SUPPLIER/VENDOR NAME				ORDER DATE	
COMMODITY CODE/BRIEF ITEM DESCRIPTION		AMOUNT \$				DELIVERY DATE	
NO.	ITEM	IN FILE	N/A	NO.	ITEM	IN FILE	N/A
1.	WRITTEN HISTORY OF PROCUREMENT			11.	REQUIRED APPROVAL (given by NDDOT)		
2.	SPECS, DRAWINGS, TECHNICAL DOCUMENTS			12.	BOARD APPROVALS (Submit copy of minutes if applicable)		
3.	SOLE SOURCE JUSTIFICATIONS (If Applicable)			13.	FEDERAL CLAUSES & CERTIFICATIONS		
4.	DEPARTMENT OF LABOR WAGE DETERMINATIONS (If Applicable)			14.	NOTICE TO PROCEED		
5.	MARKET RESEARCH/COST OR PRICE ANALYSIS (Fair and Reasonable Determination Required on any single purchase over \$5,000)			15.	PROTESTS		
6.	BIDDERS LIST			16.	PURCHASE ORDER AND MODIFICATIONS		
7.	ADDITIONAL DOCUMENTATION (Quotes - telephone quote, email or fax, catalog, price lists, website, etc.)			17.	INVOICES/VOUCHERS/CAPITAL REIMBURSEMENT REQUEST		
8.	COST OR PRICE ANALYSIS (Must include reasonable determination of cost/price.)			18.	INVENTORY IN BLACKCAT (Assets greater than \$5,000)		
9.	VENDOR RESPONSIBILITY DETERMINATION (OMB List of Debarred & Suspended Vendors & ND Secretary of State Vendor Registration)			19.	GENERAL CORRESPONDENCE		
10.	NEGOTIATION MEMORANDUM						

REMARKS:

BUYERS SIGNATURE:	DATE
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SMALL PROCUREMENT FILE CHECKLIST

Instructions for Use

See NDDOT Transit Procurement Manual for most current Federal and State requirements. If you are part of a local entity, their procurement requirements would also apply.

Use this checklist for ensuring that individual procurement files comply with appropriate Federal and local record-keeping requirements for all grants that run through NDDOT, including 5310 and 5339 grants. COMPLETE IN CHRONOLOGICAL ORDER! The field identified are not intended to be all inclusive and may not be required for all Small Purchases. The recipient must determine which fields are appropriate for the procurement and may add fields to collect information required by local procedures. The checklist must be signed and dated by the individual compiling the procurement file.

NOTE: Your procurement may be deemed invalid by NDDOT if you do not allow the NDDOT Transit Section adequate time to review document throughout the procurement process.

1. Written History of Procurement includes the reason and source of funding for the procurement including Grant number and ALI code.
2. Insert any pertinent specifications, drawings, or technical documents.
3. Insert the Sole Source justification (if applicable). SFN 51403 Alternate Procurement (AP) must be completed and submitted to transitnd@nd.gov.
4. Insert any pertinent Wage Determinations. Required if purchase is \$2,000 and includes labor.
5. Insert pertinent Market Research documents (if any).
6. Insert Bidders List.
7. Insert any supporting documents such as quotes received (telephone or email), hard-copy catalog or Internet-based search pages, price lists, etc., which are not already attached to #9. Cost or Price Analysis.
8. Insert Cost/Price Analysis.
9. Insert notification of unresponsive bidders (if applicable).
10. Insert vendor responsibility determinations. Check OMB's list of debarred and suspended vendors and Secretary of State Vendor Registry. SAM's.gov must also be checked for all purchases over \$25,000. Documentation must be uploaded showing date checked.
11. Insert any negotiation memorandum (if applicable).
12. Insert the required NDDOT approvals. Failure to get approval before issuing a PO may result in NDDOT not reimbursing the procurement.
13. Insert a copy of the Board's approval for the procurement (if applicable).
14. Insert Federal Clauses and Certifications (use [ProcurementPRO \(nationalrtap.org\)](http://ProcurementPRO(nationalrtap.org))).
15. Insert any record of the "Notice to Proceed" or "Intent to Award" (if applicable).
16. Insert any protests submitted and resolution.
17. Insert Purchase Order/Contract and any modifications.
18. Insert any options exercised and related analysis documents (if applicable).
19. Insert any applicable Invoices, Payment Vouchers, and Capital Reimbursement Request
20. Insert documentation that asset has been added to BlackCat Inventories for all assets greater than \$5,000.
21. Insert any pertinent correspondence between recipient and supplier.

PROCUREMENT HISTORY FILE CHECKLIST
(COMPLETE IN CHRONOLOGICAL ORDER)

Method of Procurement: SMALL – At least \$10,000 but less than \$50,000

FUNDING SOURCE: (Select all that apply)

5310	5311	5339	STATE AID	OTHER: (Describe)

CONTRACT/PURCHASE ORDER NUMBER		SUPPLIER/VENDOR NAME				ORDER DATE	
COMMODITY CODE/BRIEF ITEM DESCRIPTION		AMOUNT \$				DELIVERY DATE	
NO.	ITEM	IN FILE	N/A	NO.	ITEM	IN FILE	N/A
1.	WRITTEN HISTORY OF PROCUREMENT			13.	REQUIRED APPROVAL (given by NDDOT)		
2.	SPECS, DRAWINGS, TECHNICAL DOCUMENTS			14.	BOARD APPROVALS (Submit copy of minutes if applicable)		
3.	SOLE SOURCE JUSTIFICATIONS (If Applicable)			15.	FEDERAL CLAUSES & CERTIFICATIONS		
4.	DEPARTMENT OF LABOR WAGE DETERMINATIONS (If Applicable)			16.	NOTICE TO PROCEED OR NOTICE OF INTENT TO AWARD		
5.	PRICE/COST ANALYSIS (Must include reasonable determination of cost/price)			17.	PROTESTS		
6.	BIDDERS LIST			18.	PURCHASE ORDER/CONTRACT AND MODIFICATIONS		
7.	ADDITIONAL DOCUMENTATION (Quotes - telephone quote, email or fax, catalog, price lists, website, etc.)			19.	OPTION EXERCISED & RELATED ANALYSIS DOCUMENTS (If Applicable)		
8.	COST OR PRICE ANALYSIS			20.	INVOICES/VOUCHERS/CAPITAL REIMBURSEMENT REQUEST		
9.	NOTIFICATION OF UNRESPONSIVE BIDDERS (If Applicable)			21.	ADDED TO INVENTORY IN BLACKCAT (Assets greater than \$5,000)		
10.	VENDOR RESPONSIBILITY DETERMINATION (OMB List of Debarred & Suspended Vendors, ND Secretary of State Vendor Registration, & SAM's.gov)			22.	GENERAL CORRESPONDENCE		
11.	NEGOTIATION MEMORANDUM (If Applicable)						
12.	ITS Form (Required for Technology Procurements)						

REMARKS:

BUYERS SIGNATURE:	DATE

INFORMAL WRITTEN PURCHASE PROCUREMENT FILE CHECKLIST

Instructions for Use

See NDDOT Transit Procurement Manual for most current Federal and State requirements. If you are part of a local entity, their procurement requirements would also apply.

Use this checklist for ensuring that individual procurement files comply with appropriate Federal and local record-keeping requirements for all grants that run through NDDOT, including 5310 and 5339 grants. COMPLETE IN CHRONOLOGICAL ORDER! The field identified are not intended to be all inclusive and may not be required for all Informal Written Purchases. The recipient must determine which fields are appropriate for the procurement and may add fields to collect information required by local procedures. The checklist must be signed and dated by the individual compiling the procurement file.

NOTE: Your procurement may be deemed invalid by NDDOT if you do not allow the NDDOT Transit Section adequate time to review document throughout the procurement process.

1. Written History of Procurement includes the reason and source of funding for the procurement including Grant number and ALI code.
2. Insert any pertinent specifications, drawings, or technical documents.
3. Insert the Sole Source justification (if applicable). SFN 51403 Alternative Procurement (AP) must be completed and submitted to transitnd@nd.gov.
4. Insert pertinent Market Research documents (if any).
5. Insert any pertinent Wage Determinations. Required if purchase is over \$2,000 and includes labor.
6. Insert Bidders List.
7. Insert any supporting documents such as quotes received (telephone or email), hard-copy catalog or Internet-based search pages, price lists, etc., which are not already attached to #9. Cost or Price Analysis.
8. Insert Cost/Price Analysis.
9. Insert notification of unresponsive bidders (if applicable).
10. Insert vendor responsibility determinations. Check OMB's list of debarred and suspended vendors and Secretary of State Vendor Registry. SAM's.gov must also be checked for all purchases over \$25,000. Documentation must be uploaded showing date checked.
11. Insert any negotiation memorandum (if applicable).
12. Insert the required NDDOT approvals. Failure to get approval before issuing a PO may result in NDDOT not reimbursing the procurement.
13. Insert a copy of the Board's approval for the procurement (if applicable).
14. Insert Federal Clauses and Certifications (use [ProcurementPRO \(nationalrtap.org\)](http://ProcurementPRO(nationalrtap.org))).
15. Insert any record of the "Intent to Award".
16. Insert any protests submitted and resolution.
17. Insert Purchase Order/Contract and any modifications.
18. Insert any options exercised and related analysis documents (if applicable).
19. Insert any applicable Invoices, Payment Vouchers, and Capital Reimbursement Request
20. Insert documentation that asset has been added to BlackCat Inventories for all assets greater than \$5,000.
21. Insert any pertinent correspondence between recipient and supplier.
22. Insert contract close-out (if applicable).

PROCUREMENT HISTORY FILE CHECKLIST

(COMPLETE IN CHRONOLOGICAL ORDER)

Method of Procurement: INFORMAL WRITTEN PURCHASE – At least \$50,000 but less than \$100,000

FUNDING SOURCE: (Select all that apply)

5310	5311	5339	STATE AID	OTHER: (Describe)

CONTRACT/PURCHASE ORDER NUMBER		SUPPLIER/VENDOR NAME				ORDER DATE	
COMMODITY CODE/BRIEF ITEM DESCRIPTION		AMOUNT \$				DELIVERY DATE	
NO.	ITEM	IN FILE	N/A	NO	ITEM	IN FILE	N/A
1.	WRITTEN HISTORY OF PROCUREMENT			13.	REQUIRED APPROVAL (given by NDDOT)		
2.	SPECS, DRAWINGS, TECHNICAL DOCUMENTS			14.	BOARD APPROVALS (Submit copy of minutes if applicable)		
3.	SOLE SOURCE JUSTIFICATIONS (If Applicable)			15.	FEDERAL CLAUSES & CERTIFICATIONS		
4.	MARKET RESEARCH/COST/PRICE ANALYSIS (Must include reasonable determination of cost/price)			16.	NOTICE TO PROCEED OR NOTICE OF INTENT TO AWARD		
5.	DEPARTMENT OF LABOR WAGE DETERMINATIONS (If Applicable)			17.	PROTESTS (If Applicable)		
6.	BIDDERS LIST			18.	PURCHASE ORDER AND MODIFICATIONS/CONTRACT/CONTRACT AMENDMENTS		
7.	ADDITIONAL DOCUMENTATION (Quotes - telephone quote, email or fax, catalog, price lists, website, proposals, etc.)			19.	OPTION EXERCISES & RELATED ANALYSIS DOCUMENTS		
8.	COST OR PRICE ANALYSIS			20.	INVOICES/VOUCHERS/CAPITAL REIMBURSEMENT REQUEST		
9.	NOTIFICATION OF UNRESPONSIVE BIDDERS (If Applicable)			21.	INVENTORY IN BLACKCAT (Assets greater than \$5,000)		
10.	VENDOR RESPONSIBILITY DETERMINATION (OMB List of Debarred & Suspended Vendors, ND Secretary of State Vendor Registration, & SAM's.gov)			22.	GENERAL CORRESPONDENCE		
11.	NEGOTIATION MEMORANDUM			23.	CONTRACT CLOSE-OUT (If Applicable)		
12.	ITS Form (Required for Technology Procurements)						

REMARKS:

BUYERS SIGNATURE:	DATE
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FORMAL PURCHASE PROCUREMENT FILE CHECKLIST

Instructions for Use

See NDDOT Transit Procurement Manual for most current Federal and State requirements. If you are part of a local entity, their procurement requirements would also apply.

Use this template for ensuring that individual procurement files comply with appropriate Federal and local record-keeping requirements for all grants that run through NDDOT, including 5310 and 5339 grants. COMPLETE IN CHRONOLOGICAL ORDER! The field identified are not intended to be all inclusive and may not be required for all Formal Purchases. The recipient must determine which fields are appropriate for the procurement and may add fields to collect information required by local procedures. The template must be signed and dated by the individual compiling the procurement file.

NOTE: Your procurement may be deemed invalid by NDDOT if you do not allow the NDDOT Transit Section adequate time to review document throughout the procurement process.

1. Written History of Procurement includes the reason and source of funding for the procurement including Grant number and ALI code.
2. An Independent Cost Estimate is required for Formal Purchases to determine if the cost is fair and reasonable. **Must be completed prior to soliciting bids if value of the procurement will exceed the Simplified Acquisition Threshold of \$250,000.** A date must clearly show on this document.
3. Insert any pertinent specifications, drawings, or technical documents.
4. Insert the Sole Source justification (if applicable). SFN 51403 Alternative Procurement (AP) must be completed and submitted to transitnd@nd.gov.
5. Insert pertinent Market Research documents (if any).
6. Insert any pertinent Wage Determinations. Required if purchase is over \$2,000 and includes labor.
7. Insert solicitation document and any amendments.
8. Insert NDOT approval. All documents must be submitted to NDDOT for approval prior to solicitation of bids.
9. Insert all documentation showing evidence of advertisement of the procurement. Print copies of all ads and on-line notification of the procurement. Insert any questions and answers asked during the question period.
10. Insert pre-bid conference notes and Questions & Answers (if applicable).
11. Insert bids & solicitation amendments acknowledgements.
12. Insert unresponsive bidder notification.
13. Insert Bidders List.
14. Insert documentation on public bid opening. Include technical evaluation sheets, member certifications, and membership list.
15. Insert Cost/Price Analysis.
16. Insert Single Bid Analysis (if applicable)
17. Insert vendor responsibility determinations. Check OMB's list of debarred and suspended vendors and Secretary of State Vendor Registry. SAM's.gov must also be checked for all purchases over \$25,000. Documentation must be uploaded showing date checked.
18. Insert any negotiation memorandum (if applicable).
19. Insert Federal Clauses and Certifications (use [ProcurementPRO \(nationalrtap.org\)](http://ProcurementPRO(nationalrtap.org))).
20. Insert the required NDDOT approvals. Failure to get approval before issuing a PO may result in NDDOT not reimbursing the procurement.
21. Insert a copy of the Board's approval for the procurement (if applicable).
22. Insert any record of the "Intent to Award".
23. Insert any protests submitted and resolution.
24. Insert Signed Contract and any amendments.
25. Insert any Change Orders and evaluation of Change Orders.

26. Insert any options exercised and related analysis documents (if applicable).
27. Insert any Complaint & Performance issues.
28. Insert any applicable Invoices, Payment Vouchers, and Capital Reimbursement Request
29. Insert documentation that asset has been added to BlackCat Inventories for all assets greater than \$5,000.
30. Insert any pertinent correspondence regarding the contract.
31. Insert contract close-out (if applicable).

PROCUREMENT HISTORY FILE CHECKLIST
(COMPLETE IN CHRONOLOGICAL ORDER)

Method of Procurement: FORMAL PURCHASE – \$100,000 and Over

FUNDING SOURCE: (Select all that apply)

5310	5311	5339	STATE AID	OTHER: (Describe)

CONTRACT/PURCHASE ORDER NUMBER		SUPPLIER/VENDOR NAME			ORDER DATE		
COMMODITY CODE/BRIEF ITEM DESCRIPTION		AMOUNT \$			DELIVERY DATE		
NO.	ITEM	IN FILE	N/A	NO3	ITEM	IN FILE	N/A
1.	WRITTEN HISTORY OF PROCUREMENT			18.	VENDOR RESPONSIBILITY DETERMINATION (OMB List of Debarred & Suspended Vendors, ND Secretary of State Vendor Registration, & SAM's.gov)		
2.	INDEPENDENT COST ESTIMATE (ICE)-Any Procurement over the Simplified Acquisition Threshold of \$250,000 (Must include reasonable determination of cost/price)			19.	NEGOTIATION MEMORANDUM (If Applicable)		
3.	SPECIFICATIONS, DRAWINGS, TECHNICAL DOCUMENTS			20.	SIGNED FEDERAL CLAUSES & CERTIFICATIONS		
4.	SOLE SOURCE JUSTIFICATION (If applicable)			21.	REQUIRED AWARD APPROVALS (given by NDDOT)		
5.	MARKET RESEARCH//COST OR PRICE ANALYSIS (Must include reasonable determination of cost/price)			22.	BOARD APPROVAL (Submit a copy of the minutes)		
6.	DEPARTMENT OF LABOR WAGE DETERMINATIONS (If Applicable)			23.	NOTICE OF INTENT TO AWARD		
7.	SOLICITATION & AMENDMENTS			24.	PROTESTS (If Applicable)		
8.	PRE-SOLICITATION APPROVALS (given by NDDOT)			25.	SIGNED CONTRACT		
9.	ADVERTISING			26.	CHANGE ORDER LIST		
10.	PRE-BID CONFERENCE NOTES & QUESTIONS & ANSWERS (If Applicable)			27.	OPTION EXERCISES & RELATED ANALYSIS DOCUMENTS		
11.	BIDS & SOLICITATION AMENDMENT ACKNOWLEDGEMENTS			28.	COMPLAINT & PERFORMANCE REPORTS		
12.	UNRESPONSIVE BIDDER NOTIFICATION			29.	INVOICES/VOUCHERS/CAPITAL REIMBURSEMENT REQUEST		
13.	BIDDER'S LIST			30.	INVENTORY IN BLACKCAT (Assets greater than \$5,000)		

14.	PUBLIC BID OPENING DOCUMENTATION			31.	CONTRACT CORRESPONDENCE		
15.	COST OR PRICE ANALYSIS			32.	CONTRACT CLOSE-OUT		
16.	SINGLE BID ANALYSIS (If Applicable)						
17.	ITS Form (Required for Technology Procurements)						

REMARKS:

BUYERS SIGNATURE:	DATE
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Contract: _____

Vendor: _____

Cooperative Bid Agreement: _____
(If Applicable)

VEHICLE CONTRACT PRE-AWARD CHECKLIST

Vehicle Pre-Award Check: NDDOT personnel will ensure this checklist is completed prior to awarding rolling stock contracts. The following information must be contained in the procurement file for all rolling stock procurements as required by 49 CFR. For examples and further information as to what is required, refer to the Pre-Award Handbook. [Buy America | FTA \(dot.gov\)](#)

Required to Uploaded by Contractor	
Initial	Item
	1. Altoona Bus Testing Certification & Report (Procurements of buses and modified mass produced minivans): a copy is available at www.altoonabustest.psu.edu
	2. TVM Certifications (Procurements of buses and modified mass produced minivans)
	a. Verify the manufacturer is on FTA's website. Print a copy for the procurement file. Transit Vehicle Manufacturers (TVMs) FTA (dot.gov)
	b. Require all vendors to submit with the response to the solicitation: 1) documentation of their current TVM certification form from FTA; and 2) a copy of their vendor TVM approval letter from FTA. This should be included as part of the vendor's responsiveness to the procurement.
	3. Required Certifications have been signed and uploaded.
	a. Lobbying Certification
	b. Debarment & Suspension – SAM.gov verification must be uploaded as part of the submission.
	4. Certify acknowledgment all amendments have been received.
	5. Pre-Award Purchaser's Requirement Certification (All rolling stock procurements)
	a. Verify the proposed manufacture's bid complies with the recipient's specifications. A manufacturer's technical information can include: <ul style="list-style-type: none">- the bid,- specifications,-product brochures,- technical data sheets,- bill of material,- drawings, etc.

Updated 4/11/2024

Archived: F Drive->Local Government->Transit->Vehicles->VEHICLE Contract Pre-Award Checklist

	6. Pre-Award Federal Motor Vehicle Safety Standards (FMVSS) Certification – All rolling stock procurements.
	a. Complete the Pre-Award FMVSS Compliance Certification and keep in the procurement file.
	7. Pre-Award Buy America (Rolling stock procurements over \$150,000)
	a. Summarize the process used to verify the proposed manufacturer's compliance with the Buy America requirements.
	b. Create and maintain a file that includes:
	i. Recipient's Pre-Award Buy America Certification
	ii. Manufacturer or supplier's documentation of compliance or non-compliance with Buy America rolling stock requirements, a list of components and subcomponents by manufacturer or supplier, their country of origin, and cost; either as dollar amount or percentage, proposed final assembly site, description of all activities that will take place during final assembly, and total proposed cost of final assembly.
Required to be Signed and Uploaded by NDDOT Personnel	
	1. Pre-Award Purchaser's Requirement Certification Form (Attachment 1)
	2. Pre-Award Federal Motor Vehicle Safety Standards (FMVSS) Certification Form (Attachment 2)
	a. Complete the Pre-Award FMVSS Compliance Certification and keep in the procurement file.
	3. Pre-Award Buy America Certification Form (Attachment 3)
Date:	
Reviewed by:	

PRE-AWARD PURCHASER'S REQUIREMENTS CERTIFICATION

As required by 49 CFR part 663 – Subpart B, _____ (the recipient) certifies that the vehicles to be purchased, _____ (number and description of vehicles) from _____ (the manufacturer), are the same product described in the recipient's solicitation specification and that the proposed manufacturer is a responsible manufacturer with the capability to produce vehicles that meet the specifications set forth in the solicitation.

Date: _____

Recipient Authorized Signature: _____

Print Name: _____

Title: _____

PRE-AWARD FMVSS COMPLIANCE CERTIFICATION

As required by 49 CFR part 663 – Subpart D, _____
(the recipient) certifies that it received, at the pre-award stage, a copy of
_____’s (the manufacturer) self-certification
information stating that the vehicles, _____
(number and description of vehicles), will comply with the relevant Federal Motor Vehicle
Safety Standards issued by the National Highway Traffic Safety Administration in 49 CFR part
571.

Date: _____

Recipient Authorized Signature: _____

Print Name: _____

Title: _____

PRE-AWARD BUY AMERICA CERTIFICATION

As required by 49 CFR part 663 – Subpart B, _____ (the recipient) is satisfied that the vehicles to be purchased, _____ (number and description of vehicles) from _____ (the manufacturer), meet the requirements of 49 U.S.C. 5323(j), as amended. The recipient ☐, or its appointed auditor ☐ _____ (the auditor – not the manufacturer or its agent), has reviewed documentation provided by the manufacturer, which lists (1) the proposed component and subcomponent parts of the vehicles identified by manufacturer, country of origin, and cost; and (2) the proposed location of the final assembly point for the vehicles, including a description of the activities that will take place at the final assembly point and the cost of final assembly.

Date: _____

Recipient Authorized Signature: _____

Print Name: _____

Title: _____