

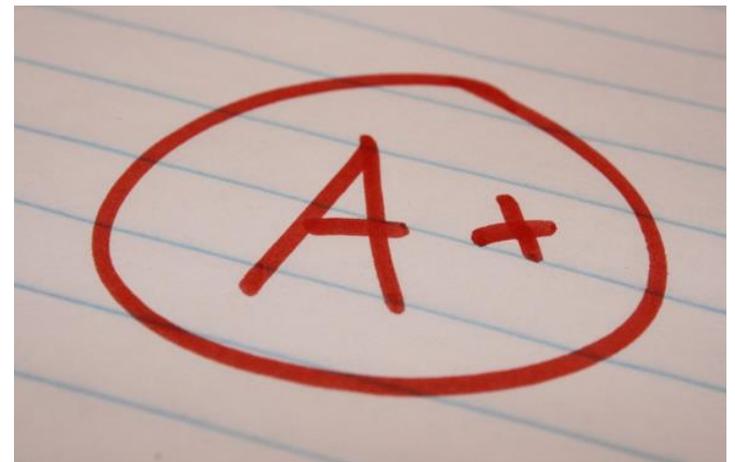
SMALL TRANSIT SYSTEM PROCUREMENT MONTANA DOT

September 30, 2015

Helena, Montana

Today's Objectives:

- By the end of today's session, the attendees will be able to demonstrate improved knowledge of practices and strategies that assure future success in their routine procurements.



PROCUREMENT

Or How to Buy Stuff Without
Breaking Any Rules

Key Points In Procurements

1. Know the rules.
2. Have a written policy for how procurements are conducted.
3. Follow the policy. Follow the rules.



REQUEST FOR PROPOSALS PROJECT MANAGEMENT FOR CUSTOMER OUTREACH AND TRANSIT MARKETING ASSISTANCE

July 23, 2013

Dear Consultant,

Marin County Transit District (Marin Transit) invites qualified consulting firms to submit proposals on project management for customer outreach and transit marketing assistance.

Small procurements

- Goods and Services:
 - Fuel.
 - Tires.
 - Parts.
 - Communications Equipment.
 - Office supplies.
 - Janitorial services.

Steps in the Procurement Process

- 1. Define the need for the item or service.
- 2. Develop performance-based specifications.
- 3. Determine procurement method to be used.
- 4. Review any lists of pre qualified or pre-existing vendors.
- 5. Issue solicitation (e.g. RFP, invitation for bid, price inquiry)
- 6. Receive, open and evaluate bids/proposals.
- 7. Announce winning proposal/bid; be prepared to respond to bid protests.
- 8. Negotiate and execute contract or similar agreement.
- 9. Vendor performs according to specifications and agreement.
- 10. Performance/delivery completed; contract closed out.

Governing Laws & Rules

- FTA, State and/or local rules.

What are the rules?

If FTA funds are involved, you probably need to follow their “Third Party Contracting” guidelines, found in FTA Circular 4220.1F



The screenshot shows the website for the U.S. Department of Transportation Federal Transit Administration. The header includes the agency name and logo. A navigation menu contains links for News, Grant Programs, Funding & Finance, Regional Offices, Contact Us, About FTA, and Top Requests. The breadcrumb trail reads: Home Page >> Top Requests >> Legislation and Law >> Law Library >> FTA Circulars. The main heading is 'Third Party Contracting Guidance'. Below it, a document icon is followed by 'C 4220.1F' and the date '03-13-13'. A bulleted list contains two links: 'Circular C 4220.1F: Third Party Contracting Guidance (MS Word)' and 'Summary of Changes (MS Word)'. The 'Purpose' section states that the circular provides contracting guidance for recipients of Federal assistance awarded by the Federal Transit Administration (FTA) when using that Federal assistance to finance its procurements (third party contracts). This revision incorporates the new procurement provisions of the Moving Ahead for Progress in the 21st Century Act (MAP 21), Pub.L., 112-141, July 2012, and includes the most current available guidance for the Federal public transportation program as of the date of publication. The 'Cancellation' section states that this circular, on 1 Nov 2008, cancelled FTA Circular 4220.1E, "Third Party Contracting Requirements," dated 06-19-03.

U.S. Department of Transportation
Federal Transit Administration

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Third Party Contracting Guidance

 **C 4220.1F**
03-13-13

- [Circular C 4220.1F: Third Party Contracting Guidance \(MS Word\)](#)
- [Summary of Changes \(MS Word\)](#)

Purpose

This circular provides contracting guidance for recipients of Federal assistance awarded by the Federal Transit Administration (FTA) when using that Federal assistance to finance its procurements (third party contracts). This revision incorporates the new procurement provisions of the Moving Ahead for Progress in the 21st Century Act (MAP 21), Pub.L., 112-141, July 2012, and includes the most current available guidance for the Federal public transportation program as of the date of publication.

Cancellation

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Montana's Rules



Linda McCulloch

MONTANA SECRETARY OF STATE

Rules

- Know which rules apply.
- You may also have internal policies.
- They should be consistent with Federal, state, local policies.

Overriding Principals

- Enunciate What is Needed.
- Seek Value.
- Encourage & Utilize Competition.
- Promote Fairness to All Bidders.
- Avoid Real or Perceived Conflicts of Interest.

Overriding Principals

- Detail related to scale of purchase.
- Shop around.
- For major purchases & bids, research into specifications.
- Minor purchases-Maximum Value vs. Cost.
- Fairness promotes competition, better products & lower prices.
- Competition & fairness avoid real or perceived conflicts of interest.

State vs. 3rd Party Procurements

- States can follow policies and procedures for acquisitions not paid for with Federal funds.
- Third party recipients-FTA rules apply and,
- FTA relies upon grantees “self certifications” that procurement system meets FTA requirements.

FTA Procurement Circular

- Refers to the *Best Practices Procurement Manual*
http://www.fta.dot.gov/grants/13054_6037.html

Some general steps in carrying out procurements

1. Determine the need, and whether an outside source (“third party”) is necessary for satisfying the need.
2. Develop technical specifications, scope of work, or the like.
3. Determine the procurement process to be used, and the basis by which a selection will be made.
4. Launch the solicitation. Adhere strictly to agency policies and requirements, especially with respect to communicating with actual and prospective bidders.
5. Make a selection. Initiate contract or similar document.
6. Receive the good or service being procured, with appropriate monitoring and oversight of the work.
7. As work nears its end, prepare for an orderly termination of the contractual relationship, then close out the procurement.

DEVELOPING SPECIFICATIONS

Specifications

- Specific details concerning the good or service being procured.
- Intended procurement schedule.
- Basis of payment.
- Anticipated terms & conditions.
- Special requirements, e.g., FTA requirement pertaining to vehicle procurements.
- Basis of vendor qualifications and selection.
- Possible bonuses or penalties for (non-)performance.
- Provisions for acceptance of property/goods/service, or ongoing monitoring of a service contract.
- Opportunities for appeal/review/resolution of disputes.

Specifications Cont'd.

- Should clearly state requirements.
- Allow for procurement of goods or service that is adequate, suitable and cost effective.
- Should emphasize functional or performance criteria.
- Unique requirements should be avoided.
- Avoid exclusionary/discriminatory specifications.
- Brand name items or descriptions may be used to indicate standards of quality, performance and/or use.
- Restrictive specifications should not be used unless no other manner of description will suffice.
- A specific brand may be specified if there is a need to maintain a standard of performance and compatibility with existing supplies, equipment or staff experience.

Specifications Format

- Name of commodity.
- Purpose/use for commodity.
- Description of commodity.
 - Each item of the description should fulfill a functional or physical requirement.
 - If brand name are necessary, list an acceptable brand name.
 - If a single brand is necessary, provide and attach justification.
 - If commodity is a sole source purchase, provide and attach justification.

Specifications Format, Cont'd.

- Describe other requirements, e.g., warranty, training, parts, manuals, service, etc.
- Describe any unusual conditions, e.g., installation, field tests, fiscal year funding source, etc.
- Date commodity is to be delivered.
- Location where commodity is to be delivered.
- Agency contact person information.
- Acceptance procedures upon delivery.

Consultant Services

- For planning tasks.
- Tasks that you don't have the time or skills to accomplish.
- Detailed specifications-describe what you want.
- Itemize deliverables.
- Include due dates.
- Request references.

LET'S BUY SOMETHING!

PROCUREMENT METHODS

Procurements Methods

- FTA Micro Purchases: < or = \$3,000.
 - Obtaining competitive prices not necessary.
 - Documentation of fair and reasonable price.
- FTA Small Purchases: \$3,000-100,000.
 - Price or rate quotations must be obtained.
 - Process must be documented.

Montana Small Purchases

- Purchases w/o Federal funds.
- <\$5,000: purchasing technique that best meets agency's needs.
- Services \$5-25,000; supplies \$5-50,000: purchase w/ 3 written or oral quotes, with authorization.

Montana Purchases <\$5,000

- Best purchase technique.
- Can include online auction.

Montana Purchases >\$5,000

- Procurement of services \$5,001-\$25,000/supplies \$5,001-\$50,000.
- Minimum of three viable written or oral quotations
- Procedure must be documented.
- Should use state's vendor list, wherever practical.

Montana Competitive Sealed Bids

- Preferred for supply and service contracts above small purchase threshold.
- Invitation for bid includes instructions, requirements and specifications.
- Award is made to lowest qualified bidder.

Solicitations

- Requirements vary depending upon which procurement method is utilized.
- Montana public notice requirements:
 - Invitations for bids/requests for proposals shall be mailed, posted electronically or furnished to a sufficient number of bidders to secure competition.
 - Invitations/RFP's may be sent to a selection of vendors from purchasing vendors list.
 - A fee/deposit may be required for receipt of invitation/RFP.
 - A sample of vendors from the vendors' list may be used.
 - Notice of public meetings to evaluate proposals must be posted on line not less than 72 hours in advance.

Montana Vendors' List

- Montana General Services Division maintains a vendors' list for all supply and service commodities.

Montana Cooperative Purchasing

- Federal supply schedules may be used.
- Public notice of solicitation must be made.
- Available to:
 - Public authorities.
 - “Other Institution”: an entity of a political subdivision that operates for a particular public purpose and expends public funds for procurement of supplies and services.
 - IRS 501(c)(3) organization expending public funds for procurement of supplies and services.

GSA Advantage online purchasing

- <https://www.gsaadvantage.gov/advantage/main/home.do>

Introducing . . .

 **GSA** AdvantageSelectSM

The right product, right now

No further competition necessary

Better prices and streamlined process

Helps meet sustainable acquisition
and socio-economic goals



Learn More »

Montana Online Auctions

- Does not include vehicles.
- Terms must comply with state laws.
- Two quotes must first be obtained from viable sources.
- Lowest quote is the maximum auction price.
- Auction price must include all participation fees and shipping & handling.

Sealed Bids/Invitation for Bid

- \$100,000+
- Two or more responsible bidders are willing and able to compete.
- Selection of a successful bidder can be made principally on the basis of price.
- Definitive specifications are available concerning items or services being purchased.
- Bids are publicly opened.
- Written fixed price contract entered into with lowest responsive and responsible bidder.

Architectural and Engineering Services

- “Qualifications-based competitive proposal” procedures.
- Description of services required is prepared.
- Proposals solicited.
- Qualifications are evaluated.
- Negotiations conducted with most qualified bidder.
- W/o agreement on price, negotiations may proceed with next most qualified bidder.

Competitive Proposal/Request for Proposals

- Proposals solicited publicly from adequate number of qualified sources.
- Pre-established methodology for evaluations and selection of successful bidder.
- Award to proposer most advantageous in terms of price and other factors.
- Where use of sealed bids is not appropriate.
 - Detailed specifications not available.
 - Price is not primary determinant in selecting the best bid.

Montana Competitive Sealed Proposals

- Other than a fixed price contract.
- Discussions w/offers concerning technical or price aspects may be necessary.
- Offerers can revise proposal.
- Award may be based upon comparative evaluation considering price, quality and contractual factors.transit
- Price is only one of criteria in determining award.
- Example: Development of a transit coordination plan.

Sole Source Purchases

- Items or services are available from only one supplier.
- Emergency requires expediency.
- Related documentation required.
- Documentation must include a cost analysis.

Montana Sole Source Procurement

- For sole source procurement >\$5,000.
- Compatibility of current services or equipment, accessories or replacement parts is of paramount consideration.
- No existent equivalent product.
- Only one source is acceptable or suitable.
- Procurement officer may conduct negotiations as to price, delivery and terms.

Montana Sole Source Procurement

- Following items do not require sole source justification:
 - Professional licenses.
 - Dues to associations.
 - Renewal of software license agreements.
 - Purchase or renewal of maintenance agreements for software or hardware.
 - Publications available only from a single supplier.

Procurement from Sheltered Workshops- Montana

- Exempt from competitive bidding rules.
- Purchases may be made directly.
- State maintains list of certified sheltered workshops, and supplies and services provided.

Used Equipment-Montana

- Purchase of used equipment is allowable, if it is in the best interest of the organization.
- Compare type, use and life expectancy of new vs. used.
- Compare cost of new vs. used.
- Compare price and condition among several vendors.
- Investigate warranty, maintenance and parts availability.

Exigency-Montana

- "Exigency" means a purchase made without following normal purchasing procedures due to a sudden and unexpected happening or unforeseen occurrence or condition which requires immediate action.
- E.g., a replacement water pump.
- Need and process must be documented

Montana-Alternative Procurement Methods

- Agency may request alternative procurement method for a supply or service.
- State division may conduct procurement.
- Question/discussion: What kinds of procurement can Montana DOT conduct for grantees?

DBE

- Establish organizational DBE goals.
- State DBE goals in solicitation.
- Bidders can supply DBE data.
- Contracts can help organization meet DBE goals.
- DBE data not sole consideration in bid award.

Service Contracts/Leasing

- May be more cost effective than purchase.
- Weigh long/short term costs & funding availability.
- Procurement guidelines apply.
- Examples: leasing office equipment, service contract for office cleaning, contracting vehicle maintenance.

Procurement Methods

- Micro purchase.
- Small purchase.
- Competitive Sealed Bid.
- Cooperative Purchase.
- Online auction.
- Sealed Bid/Invitation to Bid.
- Competitive Proposal/RFP
- Sealed Proposal.
- Sole Source.
- Sheltered Workshop.
- Used Equipment.
- Exigency.
- Alternative Procurement.
- Service Contract/Leasing.

HOW DO WE PROCURE?

What Are We Buying?

REVIEW OF BIDS/PROPOSALS

Bid Evaluation

- Selection procedures must be documented, and included in solicitations.
- Checklist of all required items.
- A deadline is a deadline.
- Be sure you have bids that arrive just before the deadline.
- Most will arrive on the due date.
- A bid opening is open to the public.

Proposal Evaluation (RFP)

- Selection procedures must be documented, and included in solicitations.
- Checklist of all required items.
- A deadline is a deadline.
- Be sure you have bids that arrive just before the deadline.
- Most will arrive on the due date.
- Selection not solely on cost, but “best value”.
- Check references. (and “non-references”)

Evaluations

- For larger procurements, establish a review/selection committee.
- Review may require significant time.

“Apples with Apples”

- Tighter specifications result in better proposals.
- Ability to compare bids/proposals against one another.

Determination of Responsiveness

- Bidder has appropriate financial, material, equipment, facility, and personnel resources and expertise-
- Necessary to meet all contractual requirements.
- Bidder has satisfactory record of integrity.
- Bidder is qualified to contract with organization.
- Bidder has supplied all requested information.
- Bidder has a satisfactory record of past performance.
- A determination of nonresponsibility may be made at any time.

Direct Negotiation

- When no responses to invitations for bids or requests for proposals are responsive:
- Reissue solicitation.
- Seek to increase # of vendors; modify specifications to increase participation.
- Or conduct direct negotiation.

THE DECISION IS MADE

Contract Execution

- Larger procurements:
- Formal written contract.
- Contract contains specifications and related price.
- Contract establishes expectations for delivery deadlines, terms of payment, penalties for non-performance, etc.
- Contracts are to awarded only to responsible contractors possessing the ability to perform successfully.

Contracts

- Contracts above “small purchase” threshold must contain remedy provisions in case of breach of contract.
- Contracts \$10,000+ must contain terminations provisions.
- Consulting service contracts- provide for termination without cause at any time.
- Termination due to grant cancellation.

Contract Monitoring

- Continuing process.
- Ensure compliance with all requirements.
- Ensure deadlines are met.

Disputes

- Include and document procedures for resolving disputes.
- Disputes can involve the supplier and/or buyer.
- Include written protest procedures.

Risky business in procurements

- Inappropriate or unclear specifications.
- Risking your ability to reject any and all proposals.
- Failure to communicate DBE, civil rights, and/or other requirements that pass through to your contractor.
- Sole-source procurements.
- Communication with prospective bidders & other perceived “inside deals” or “wired contracts”.
- Real and perceived conflicts of interest.
- Open-ended periods of performance.
- No monitoring of contract.
- Overzealous monitoring of contract.

Guidelines

- Know what you want.
- Be specific.
- Know the rules.
- Document, document, document.
- Use the simplest permissible procurement method.
- If in doubt, ask.

Buy what you need and want

Not what they want to sell you...

Having celebrated the 125th Birthday of the Brooklyn Bridge you are hereby issued this Ceremonial:



Deed ^{OF} THE Brooklyn Bridge

This certificate hereby proclaims that you have successfully fulfilled your duty of loving, honoring and supporting the Brooklyn Bridge. While your superb efforts are applauded, we ask that you keep up the great job of loving this Bridge and ask others around you to do the same. Celebrate the Brooklyn Bridge not only today but everyday hereafter.

May 24, 2008

Brooklyn Borough President Mary Markowitz



BROOKLYN BRIDGE
125
ESTABLISHED 1883

Brooklyn Bridge Guardian

QUESTIONS?

Resources

- MDT
- SURTC
- Local and State procurement officers
- FTA Regional Offices
- CTAA
- Definitions:
<http://www.mtrules.org/gateway/RuleNo.asp?RN=2%2E5%2E201>

Conclusion & Thanks

For follow up, or any related conversations, contact:

- Charlie Rutkowski, Community Transportation Association of America
202-299-6593; rutkowski@ctaa.org