



ADDENDUM

Meeting of the Connect Transit Board of Trustees

June 30, 2015

New Business:

- F7. Revised Procurement Policy – Staff Report and Revised Policy



MEMO

DATE: June 30, 2015
TO: Board of Trustees
FROM: Isaac Thorne, Procurement Director

RECOMMENDATION: That the revised Procurement Policy be approved.

DISCUSSION: Below are the proposed changes to the Procurement Policy:

- Protest Procedures – Vendors submitting a protest should send it to the Procurement Director, (instead of the General Manager). Procurement Director will communicate protest information to the General Manager.
- Approval Levels for Purchases – increase the purchasing threshold from \$15,000 to \$50,000 for the General Manager. This will allow better responsiveness to situations such as powertrain replacements and accident repairs; make purchases and increase the speed at which projects can start.
- Micro-Purchases – Connect may acquire property and services valued at less than \$2,000 without obtaining competitive quotes but shall provide for competition whenever practicable. This is below the federal micro-purchase level of \$3,000.
- Small Purchase – Connect may use informal solicitation methods of securing supplies, services, or property that cost more than \$2,000 but do not cost more than \$50,000 in the aggregate. This is below the federal small purchase level of \$100,000. Currently, any formal purchase must to be posted for (30) thirty days before bids can be accepted. This proposed change will allow staff to immediately seek quotes from vendors to secure supplies, services, or property.
- Formal Procurement – Connect would issue a formal solicitation for any purchase above \$50,000. This is below the federal formal procurement requirement of \$100,000 or above.
- Illinois Department of Transportation (IDOT) Capital Funding – Any purchase above \$10,000 with IDOT capital funding requires a formal procurement method.
- Contract Work Hours and Safety Standards Act – All contracts issued for construction greater than \$100,000 requires a provision of compliance with Contract Work Hours and Safety Act. 40 USC 3701 (b)(3)(A)(iii)

CONNECT TRANSIT
PROCUREMENT
POLICY AND
PROCEDURES

Effective November 1, 2011

Connect Transit
Revision 1:
4/24/2012
Revision 2:
6/30/2015

TABLE OF CONTENTS

SECTION 1 – Purpose and Introduction6

1.1 Objective6

1.2 General Procurement Standards6

1.3 Standards of Conduct.....7

1.4 Economic Purchasing.....7

1.5 Specifications7

1.6 Contract Administration7

1.7 Records8

1.8 Contract Period8

1.9 Use of Existing Contracts8

1.9.1 Federal and State Contracts8

1.9.2 Exercising Options in Other Agency Contracts8

1.9.3 Types of Options9

1.10 Protests10

1.10.1 Policy10

1.10.2 Submittal Procedures11

1.10.3 Protests of Solicitation Process11

1.10.4 Protests of the Evaluation Process13

1.10.5 Evaluation of Protests13

1.10.6 Protests Files with FTA13

SECTION 2 – Policies.....15

2.1 Ethics15

2.1.1 Relationships15

2.1.2 Gifts and Gratuities15

2.1.3 Violations15

2.2 Organizational Conflict16

2.3 Centralized Purchasing Authority 16-18

2.4 Approval Levels for Purchase.....18

2.4.1 Emergency Purchases19

2.5 Disadvantaged Business Enterprises19

2.5.1 Program19

2.5.2 Policy19

2.5.3 Award Procedures.....20

2.6 Audits/Inventory of Assets.....20

2.6.1 Real Property Acquisition and Management.....20

2.6.2 Equipment Management Standards20

2.6.3 Parts and Supplies Inventory.....21

2.7 Disposition of Surplus Equipment and Supplies/Scrap21

2.7.1 Identification of Surplus/Obsolete Materials, Supplies, Equipment21

2.7.2 Disposition Before End of Service Life21

2.7.3 Retain and Use Elsewhere.....22

2.7.4	Value over \$5,000	22
2.7.5	Less than \$5,000 Value.....	22
2.7.6	Like-Kind Trade-IN or Offset Exchange.....	22
2.7.7	Transfer to Public Agency for Non-Transit Use.....	22
2.7.8	Sell and Use Proceeds for Other Capital Projects	23
2.7.9	Unused Supplies	23
2.7.10	Disposal of Scrap.....	23
SECTION 3 – Responsibilities.....		24
3.1	General	24
3.2	Connect Transit Board of Trustees.....	24
3.3	General Manager	24
3.4	Maintenance Superintendent.....	25
3.5	Procurement Director	25
3.6	Treasurer	26
3.7	Disadvantaged Business Enterprise Liaison Officer	26
SECTION 4 – Acquisition Planning.....		27
4.1	General	27
4.2	Departmental Responsibilities	28
4.3	Planning Major Procurements	28
4.4	Planning Routine Procurements.....	28
SECTION 5 – Methods of Procurement – Below Formal Bidding Threshold		29
5.1	General	29
5.2	Petty Cash Purchases.....	29
5.3	Micro Purchases	29
5.4	Small Purchases	30
5.4.1	Connect Transit Competition Guidelines	30
5.4.2	Check Request/Petty Cash/Direct Pay Items	31
SECTION 6 – Formal Procurement Methods.....		32
6.1	General	32
6.2	Conditions Determining When Formal Advertising is Appropriate.....	32
6.3	Public Advertising.....	34
6.4	Solicitation: Preparation of IFB.....	34
6.5	Solicitation Guidelines.....	36
6.5.1	Specifications.....	36
6.5.2	Bidding Time	36
6.5.3	Distribution of IFB's	36
6.5.4	Amendment of IFB	37
6.5.5	Responsiveness of Bids	37
6.5.6	Modification/Withdrawal of Bids.....	37
6.5.7	Time and Place of Bid Submission	37

6.6	Two-Step Sealed Bid	38
6.6.1	Conditions for Use.....	38
6.6.2	Procedures for Two-Step Sealed Bidding.....	39
6.6.3	The Two-Step Sealed Bidding.....	39
6.6.4	Step One.....	39
6.6.5	Step Two.....	40
6.7	Competitive Negotiations (Sealed Proposals)	40
6.7.1	Competitive Negotiations Method.....	40
6.7.10	Architect/Engineering Contracts	42
6.8	Non-Competitive Procurement	43
SECTION 7 – Receipt and Evaluation of Bids and Proposals.....		45
7.1	Sealed Bids.....	45
7.2	Competitive Proposals	45
7.3	Responsiveness Review	45
7.4	Responsive Review.....	46
SECTION 8 – Contract Cost and Price Analysis		47
8.1	Requirement	47
8.2	Independent Cost Estimate	47
8.3	Cost Analysis	47
8.4	Price Analysis	48
SECTION 9 – Construction Contracts		49
9.1	General	49
9.2	Federal Labor Requirements.....	49
9.2.1	Davis-Bacon Act.....	49
9.2.2	Copeland Anti-Kickback Act	49
9.2.3	Contract Work Hours and Safety Standards Act.....	50
SECTION 10 – Contract Administration.....		51
10.1	Procurement Director’s Post-Award Responsibilities.....	51
10.1.1	Monitoring for Contract Compliance	51
10.1.2	Enforcing Contract Provisions	51
10.2	Project Management	52
10.3	Contract Amendments and Change Orders.....	52
10.4	Contract Requirements	52
10.5	Assignment of Contract Rights	54
10.5.1	Acquisition Through Assigned Contract Rights.....	54
10.5.2	Alternatives to Assigned Contract Rights.....	54
10.6	Impermissible Actions	55
10.7	Special Contract Requirements.....	56
10.7.1	Liquidated Damages Provisions	56
10.7.2	Progress Payment Provisions	57

10.8 Insurance Provisions57

10.9 Prohibited or Restricted Contract Types60

10.9.1 Cost Plus a Percentage of Cost – Prohibited.....60

10.9.2 Time and Materials – Restricted.....61

10.10 Revenue Contracts61

10.11 Contract Termination Provisions61

10.12 Buy America Provisions62

10.13 Federal Provisions and Required Contract Clauses63

Appendix A – Solicitation File Checklist64

Appendix B – Contract File Checklist.....65

Appendix C – Methods of Procurement – Quick Reference.....66-67

Appendix D – Applicability of Third Party Contract Provisions.....68-70

~~Appendix E – Fair and Reasonable Price Form.....71~~

1.0 PURPOSE AND INTRODUCTION

Objective

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

Connect Transit policies and procedures are established in order to:

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

1.1 General Procurement Standards

1.2 Competition

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

In implementing this standard, procurement 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 Connect Transit website’s [procurement page for downloading](#). 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

The Connect shall maintain a written code 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 and Illinois 30 ILCS 500 Procurement Code, 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

Connect 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

Connect 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 Connect, and the relative benefit to Connect Transit of a longer or shorter contract term.

1.9 Use of Existing Contracts

1.9.1 Federal and State Contracts

Connect 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 Connect to do so and complies with Federal Transit Administration and Illinois 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's use of another transit agency's existing contract when the awarding agency's 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 that the existing contract contain an assignability clause and all required FTA contract clauses and certifications; these clauses cannot be added by Connect 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. Connect must determine that the agency with the contract complied with all FTA requirements relating to competition and performance of a cost or price analysis. Connect must also perform its own cost or price analysis to determine that the prices it will pay are fair and reasonable. Connect Transit Procurement Director will obtain all appropriate documentation from the original awarding agency are retained in the procurement file for that acquisition. Piggybacking should not be confused with a joint acquisition, where Connect 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 Connect 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 Connect 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 Connect 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, the Procurement Director 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

Connect policy requires that 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 offeror 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 the ~~General Manager~~Procurement Director 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 that 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 protestor, the same information must be provided, plus a statement defining the relationship between the protestor 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 the ~~General Manager~~ Procurement Director. Connect may decide a protest solely upon the written submission. The protest submission should therefore include all materials necessary to support the protestor's position. Additional or supplemental materials may only be submitted at the request of, or with the permission of, the ~~General Manager~~ Procurement Director. 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, the ~~General Manager-Procurement Director~~ shall notify all prospective procurement offerors and other known interested parties of the receipt and nature of the protest, and shall post a notice of the protest on the Connect Transit's web page. Unless the ~~General Manager-Procurement Director~~ determines that delay will be prejudicial to the interest of the Connect or that the protest patently lacks substantial merit, the solicitation process will be extended pending resolution of the protest will be considered and either denied or sustained, in part or in whole, by the ~~General Manager-Procurement Director~~ 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 the Connect 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 the ~~General Manager-Procurement Director~~, as defined below. Protests received by the Connect after the time periods specified above shall be considered untimely and may be denied on that basis unless the ~~General Manager-Procurement Director~~ 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 Connect staff of a recommendation to be made to the Board of Trustees, 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 Connect 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 the Connect is improper, illegal, or the decision to recommend award is arbitrary and capricious. The protest must be received by the Connect 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, the Procurement Director shall notify all offerors 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 General Manager determines that delay will be prejudicial to the interest of Connect or that the protest lacks substantial merit, award will be withheld pending disposition of the protest. Should one or more offerors refuse a requested extension of the validity of an offer, the Procurement Director 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 Connect if:

- (d) The equipment, supplies or services are urgently required; or
- (f) Failure to make a prompt award will economically or operationally damage Connect Transit. Should the protest be upheld in whole or in substantial part, the Procurement Director may either (1) revise the evaluation process to correct the matter protested; or (2) cancel the solicitation in its entirety. In the event that the Connect Transit proceeds with an award for one of the reasons stated above, and the protest is subsequently upheld, the Procurement Director 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 the Connect.

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. The Procurement Director 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, the Procurement Director shall notify parties involved in the procurement as identified above, and such Connect 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. The Procurement Director 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. The Procurement Director 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 Illinois Freedom of Information Act.

1.10.6 Protests Filed with FTA

A protestor may file a protest with FTA only after exhausting all administrative remedies provided by the Connect, on the basis described in FTA Circular 4220.1F, Chapter VII, Sec. 1.b. FTA's review of protests will generally be limited to allegations that (1) the Connect Transit does not have or fails to follow its protest procedures; (2) the Connect 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 Connect Transit's 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 Connect, no Connect employee, officer, board member, legal counsel or other agent, including any member of an evaluation committee for a Connect 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 Connect contract if a conflict of interest, real or apparent, would exist. Such a conflict would exist when an employee, officer, or agent of Connect 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 Connect Transit's policy that no employee, officer, or agent of Connect 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 Connect Transit's ethics policy by any employee shall subject the individual to disciplinary action up to and including discharge as determined by the General Manager of Connect. Violation of this policy by the General Manager, officer or agent of Connect shall subject the individual to disciplinary action or sanction as determined by

Connect Transit Board of Trustees. 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 Connect. Violation of this policy by bidders or potential contractors may be considered to make such bidder or offeror ineligible to bid or render a bid or proposal non-responsive.

2.2 Organizational Conflict of Interest

It shall be Connect Transit's 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 Connect 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 Connect.

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.

Department Head at Connect Transit are 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 Connect Transit rests with the General Manager and Procurement Director. ~~No other department or employee except for the General Manager may commit funds to potential or existing suppliers or vendors on B-NPTS's behalf.~~ Occasionally, certain authority or responsibility may be delegated to

other departments for a limited period of purpose and always subject to the Procurement Director's review.

- 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 User departments are 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 User departments are responsible for providing, in a manner as thorough and complete as possible, Scope of Work or technical specifications for their requirements for the Procurement Director. The Procurement Director shall assist user departments to define their requirements when requested.
- 2.3.5 User departments may consult with vendors concerning details of their products; however, only the Procurement Director should discuss prices, quantities, or other bidding, proposal, or contractual matters with vendors.
- 2.3.6 All correspondence with a supplier regarding a matter of its contract with Connect, whether relating to the scope of work, specifications, quality of work, delivery, payment, etc., shall be by or through the Procurement Director.
- 2.3.7 The Procurement Director shall be responsible for the conduct of all negotiations with bidders, prospective contractors, or contractors with assistance from the General Manager and legal counsel.
- 2.3.8 The Procurement Director 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 Connect, and to consider consolidating or breaking out procurements to obtain economical purchases.
- 2.3.9 The Procurement Director 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 Connect to do so and complies with Federal Transit Administration (the "FTA")/Illinois Department of Transportation (the "IDOT") requirements and guidelines.
- 2.3.10 It is the Procurement Director'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. 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 the Procurement Director'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.
- 2.3.12 The Procurement 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, the Procurement Director shall follow Connect Transit's written protest procedure (see Section 1.10).
- 2.3.13 Connect 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 Connect Transit's required approval levels for procurement requisitions. Approvals must be obtained before committing Connect Transit funds. The purchasing authority listed below shall be further limited by the approved and adopted Connect Transit fiscal year budget. Any purchase which is not included in the approved and adopted Connect Transit fiscal year budget shall be approved by the Board of Trustees

<u>Amount</u>	<u>Approval Required</u>
Up to \$250,000 <u>2,000</u>	Any one of the following: Maintenance Superintendent <u>Director</u> , Procurement Director, <u>and</u> General Manager
Up to \$7,500.00	—Any one of the following: Procurement Director, General Manager, <u>Procurement Specialist</u>
Up to \$15,000 <u>50,000.00</u>	General Manager
Over \$15,000 <u>50,000.00</u>	Board of Trustees

Formatted: Indent: Left: 0.5", Hanging: 1.5"

2.4.1 Emergency Purchases

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

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

After normal business hours, the Department Head present 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 that 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 Connect to actively encourage and assist DBEs to participate competitively in Connect procurement actions. The Procurement Director is Connect Transit's DBE Liaison Officer. The DBE Liaison Officer is appointed by the General Manager and reports directly to the General Manager on all matters pertaining to the DBE program. The DBE Liaison Officer is responsible for DBE program coordination and enforcement and works closely with the other Connect Transit Departments 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 Procurement 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, Connect employees who are responsible for purchase decisions should consult the

Illinois Uniform Certification Process list of DBE approved vendors. If such a vendor is identified, the potential contractor should be notified that Connect is considering an expenditure that the DBE firm may be in a position to satisfy. Connect employees should employ all reasonable means of identifying DBE vendors. If no DBE vendor can be found, the Procurement 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

Connect 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, Connect 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

Connect 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, Connect 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/IDOT funded equipment. For those items identified as surplus, the Finance Director assisted by the Procurement Director will be responsible for developing a plan for disposal for approval by the General Manager.

2.6.3 Parts and Supplies Inventory

Connect 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 Finance Director 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 each department head. Equipment shall be surplus to Connect when it becomes obsolete to Connect because it has been replaced by newer equipment or because the equipment no longer supports Connect Transit's 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 Connect Transit's 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. Stock levels and order levels will be reviewed for all stock items at least once annually by the Maintenance Director.

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 Connect Transit General Manager.

2.7.2 Disposition Before End of Service Life

Any disposition of rolling stock before the end of its service life requires prior FTA/IDOT approval. FTA/IDOT 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/IDOT is the greater of the FTA/IDOT 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 Connect for other projects or programs. FTA/IDOT prior approval of this alternative is required. FTA/IDOT 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/IDOT 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/IDOT's participation

in the original grant. Connect Transit's 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/IDOT, 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, Connect 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 Connect. 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, Connect 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 Connect Transit's 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, Connect 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)] Connect 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. Connect 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, Connect (or a subrecipient) 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 General Manager prior to disposition. All sales shall be by cashier's check or cash, unless otherwise approved by the General Manager.

3.0 RESPONSIBILITIES

3.1 General

The authority to award contracts exceeding \$~~1550~~,000 rests with Connect Transit's Board of Trustees. This authority is delegated, in part, to the Connect General Manager who has further delegated responsibilities to subordinates to carry out daily operations.

The Connect procurement function is the responsibility of the Procurement Director. The Procurement Director is in charge of daily operations and serves as Connect Transit's Contracting Officer. The Procurement Director works closely with all department heads. By centralizing authority for purchasing, Connect assures close control of the procurement process and consistent application of Connect policies. The responsibilities of persons involved in the procurement process are described in the following paragraphs.

3.2 Connect Transit Board of Trustees

- (a) Sole contracting authority for purchases exceeding \$~~1550~~,000 spanning total life of contract.
- (b) Establishes agency operating budget and capital plan and budget based on recommendations of General Manager and staff.
- (c) Approves all purchases over \$~~1550~~,000.00 resulting from advertised bids, based on Management's recommendation.
- (d) Authorizes disposal of capital items, with an aggregate fair market value of more than \$7,500.00.
- (e) Sets annual DBE goals based upon recommendation of Connect Transit General Manager and staff.
- (e) Approves Procurement Policy.

3.3 General Manager

- (a) Approves all purchases up to \$~~1550~~,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 \$~~1550~~,000 on behalf of Connect Transit. May sign any contract exceeding \$~~1550~~,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) Appoints Procurement Director, who is responsible for purchasing function.
- (e) Approves any changes to internal purchasing procedures and assures compliance with Connect Transit purchasing policies.

3.4 Maintenance Superintendent Director

- (a) Approves as final approval, Maintenance Department purchases up to ~~\$250,000,000~~.
- (b) Oversees operation of Parts Department, its compliance with Connect purchasing policies in cooperation with Procurement Director. The below items are the responsibilities of the Maintenance Superintendent:
 - (c) Reviews software generated inventory reorder report and indicates items and quantities to be ordered to maintain stock, then forwards purchase requisition to Procurement Director for review.
 - (d) Initiates requisitions for stock or non-stock items to cover planned maintenance campaigns, seasonal purchases, or emergency/bus-down repairs.
 - (e) Processes materials receipts and forwards receiving report to Procurement Director to initiate payment; coordinates with Procurement Director on open purchase orders and unidentified receipts.
 - (f) Responsible for ensuring that all parts are classified and stocks all new parts and supplies, makes regular physical stock checks, coordinates inventory purchased for other departments, coordinates annual parts inventory.
 - (g) Reviews inventory requirements (minimum and maximum shelf requirements for each item) and adjust as required to assure maximum availability consistent with minimum stock level.
 - (h) Reviews inventory and identifies excess and slow-moving items for disposal, making disposal recommendations; responsible for physical identification, collection and security of surplus and scrap until sale or disposal.

3.5 Finance Director

Authorizes payments to vendors upon Procurement Director and the Department Heads verification of receipt.

3.6 Disadvantaged Business Enterprise Liaison Officer (Procurement Director)

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

4.0 ACQUISITION PLANNING

4.1 General

Connect recognizes that advance procurement planning is a significant factor in providing and enabling full and open competition. 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 Departmental Responsibilities

Department heads initiating the purchase requisition form are responsible for providing the Procurement Director 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, department heads are responsible to furnish the following information to the Procurement Director (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 Procurement Directors list is incomplete.
- | (g) Fair and Reasonable determination ~~sheet (Appendix E)~~ on the Purchase Order

Early coordination regarding departmental requirements with the Procurement Director will enable any required assistance to be given in developing the above information in a timely manner. The Procurement 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, FTA Circular 4220.1F requires that an independent cost estimate for all purchases of materials, equipment or services be provided before soliciting quotations, bids, or proposals. Department heads initiating projects are responsible for providing an independent cost estimate to the Procurement 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, the Procurement Director and Finance Director will annually convene one or more meetings of department heads to involve them in the annual budget approval process for the purpose of advance procurement planning for the coming 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 Procurement Director will issue to department heads 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 Procurement Director maximum opportunity to properly schedule non-routine procurement activity.

5.0 METHODS OF PROCUREMENT – BELOW FORMAL BIDDING THRESHOLD

5.1 General

The Procurement Director will work with department heads to determine the most appropriate method of procurement for their requirements. Purchases will be made by the following methods:

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

A significant portion of Connect 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 Connect funds. The only exceptions to this rule are:

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

5.2 Petty Cash Purchases

The purchase of small-dollar value non-inventory items, \$25.00 or less may be accomplished using the petty cash account. The petty cash account is intended to satisfy immediate small-dollar needs. All petty cash expenditures must be approved by authorized individual and supported by appropriately detailed receipts. Please refer to the Petty Cash Procedures for further information.

5.3 Micro-Purchases

The Connect may acquire property and services valued at less than ~~\$1,000~~ \$2,000 without obtaining competitive quotes but shall provide for competition whenever practicable. This threshold is below FTA regulations contained in FTA Circular 4220.1F defining micro-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)

5.4 Small Purchase Procedures

The Connect Transit defines small purchases as those relatively simple and informal methods for securing supplies, services, or property that cost more than \$12,000 but do not cost more than \$1550,000 in the aggregate. This small purchases 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, ~~ordinarily not less than four~~. 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. ~~If fewer than three quotes are received, the file should be documented as to the reasons therefore.~~ 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 Connect Transit Competition Guidelines

The competition guidelines expressed below apply only to purchases that are greater than \$4950,000 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 Procurement Director and staff will periodically examine proposed expenditures for lines or classes of standard commercial items of material exceeding \$7,500.00 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 three 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.

Bus parts with a unit cost of less than \$250.00 per unit may be priced by vendor quotation or bid (no less often than) once per year to create a primary vendor for the period.

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, Connect Transit will receive a bill or invoice and for others, Connect may bear the responsibility for meeting a scheduled payment. These payments shall be made by the Finance Director pursuant to approval by the appropriate Department head.

6.0 FORMAL PROCUREMENT METHODS

6.1 General

When Connect Transit requirements for a line or class of materials to be purchased annually exceeds \$~~4050~~,000 or rental/lease payments shall exceed \$~~4050~~,000 annually, or a simple service contract shall be over \$~~4050~~,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.

When Connect Transit is procuring with Illinois Department of Transportation Capital funds all procurements above \$10,000 must be formally procured.

In addition to the above required formally advertised IFB solicitations, Connect 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 Connect.

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 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, the Contracting Officer 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, the Contracting Officer may waive minor informalities, defined as matters not affecting the price, schedule, or quality of the bid.
- (g) The Contracting Officer, in consultation with other departments involved in the procurement, shall then 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-responsive, 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 \$~~4050~~,000, in aggregate or annually, will be publicly advertised in accordance with Section 5.203 of the Federal Acquisition Regulations (FAR) which specifies that publication will be made at least thirty (30) days before the date that bids will be received. At a minimum, publication will occur on Connect Transit website and or locally in the general newspaper of largest circulation in the Bloomington-Normal 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.

The Procurement Director 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 department heads and the General Manager.

6.4 Solicitation: Preparation of IFB

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 Connect; 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.

IFB's should contain the following information if applicable to the purchase:

- (a) IFB (sequence) number;
- (b) name and address of Connect;
- (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, Connect 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 IFB's

IFB's over \$~~1050~~,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 IFB's and bids will be maintained for a reasonable period in order that they may be consulted in preparing a source list for similar IFB's.

6.5.4 Amendment of IFB

Any change or correction necessary in bid quantities, specifications, delivery schedules, opening date, etc., which is required after issuing IFB's 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 Connect 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 Procurement 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 Connect 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 Connect Transit's Procurement Director, 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 Connect 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 unpriced 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 an Request for Proposal is issued requesting the submission of unpriced 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, Connect 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 Connect;
- (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) Connect-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 unpriced 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 Connect.

- (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.
- (c) 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 offerors 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 offerors and requests for revised proposals. The objective of the process is to negotiate one or more technical solutions acceptable to Connect. As part of this process, the Contracting Officer 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 offeror 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 offeror.

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 the Contracting Officer 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 when the Contracting Officer determines that the following conditions exist:

- (a) A complete, adequate, and realistic specification or purchase description is not available.
- (b) Two or more responsible offerors are willing and able to compete effectively for the award.
- (c) The selection of the successful offeror requires consideration of factors other than price.
- (d) Discussions with offerors 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 The Director of Procurement, in consultation with the General Manager, will appoint persons who have knowledge of the procurement's subject matter/technology to participate in the Technical Evaluation Panel (TEP). To the extent feasible, the panel members shall represent different departments within Connect, and shall not directly report to the same individual. The presence of individuals and their direct supervisor on the same panel is to be avoided. Each panel member shall be required to disclose any potential conflict of interest, and may be excluded by the Director of Procurement 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 Procurement 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 the Procurement Director, 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 the Procurement Director that 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 that each firm’s proposal is revised to conform, to the greatest extent possible, to the needs of the Connect 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 one proposer 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 that all firms are still in the competitive range but that additional discussions are necessary; or (3) determine that further discussions will not significantly affect the outcome of this procurement.
- 6.7.7 When the TEP reaches a determination that further discussions are not likely to significantly affect the outcome of the procurement, the Procurement 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 Procurement Director to request revisions to the BAFO. The TEP will prepare a final evaluation report that (1) describes the technical strengths, weaknesses, and risks (if any) of the proposals in accordance with the technical evaluation criteria; (2) evaluates the proposals’ estimated costs for reasonableness (for cost type contracts); or prices offered (for fixed price contracts), and

(3) recommends the “best value” offer – that proposal which offers the best combination of technical merit/performance and pricing.

6.7.9 The Procurement 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.

6.7.10 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 (the “A&E”) services. Other types of services considered A&E services 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 that:

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

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 that provides A&E services is also a potential source to perform other types of services.

6.8 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 that is 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. “Tag-ons” are defined by FTA as additions to the scope of work or deliverable items that were not included in the original contract competition, and which must be treated as sole source additions to the contract. Tag-ons are not to be treated as changes within the scope of the contract.

6.8.1 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;
- (e) After solicitation of a number of sources, competition is determined inadequate;
or

The item is an associated capital maintenance item as defined in 49 U.S.C. § 5307(a)(1) that is procured directly from the original manufacturer or supplier of the item to be replaced. Connect must first certify in writing to FTA: (i) that such manufacturer or supplier is the only source for such item; and (ii) that the price of such item is no higher than the price paid for such item by like customers.

- 6.8.2 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;
or
- 6.8.3 The item is an associated capital maintenance item as defined in 49 U.S.C. §5307(a) (1) that is procured directly from the original manufacturer or supplier of the item to be replaced, and no other sole source justification applies. Connect Transit must first certify to the FTA in writing that the manufacturer or supplier of the capital maintenance item is the only source for the item and that the price is no higher than the price paid by like customers.
- 6.8.4 Receipt of a single responsive and responsible bid or proposal is not, by itself, conclusive evidence that competition was inadequate; the Procurement 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. The Contracting Officer, however, must investigate the reason why no other bids or proposals were received; verify that the specification was not unduly restrictive and that the solicitation cannot be modified in a manner that would result in greater competition; and document the file accordingly.
- 6.8.5 A cost analysis is required for each sole source acquisition.
- 6.8.6 The contract file must include a sole source determination by the Procurement Director 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, the Procurement Director should check the front desk to ensure that 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 Procurement 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 Procurement 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 an offeror cannot later correct a deficiency. Any defect in an area of responsiveness requires the rejection of the bid or proposal. As a result, the Procurement Director should ensure that 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 offeror 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;
- (e) record of the bidder's past performance;
- (f) 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's "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 estimate must be prepared without knowledge of the contractor's proposed pricing.

8.3 Cost Analysis

A cost analysis must be performed when the offeror 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 that 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.

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 (see Section 6.8 Bonding Requirements), 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. 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

Connect is subject to the requirements of the Davis-Bacon Act, under which the advertised specifications for every Connect 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, Connect Transit must report all reported or suspected violations to the FTA.

9.2.2 Copeland Anti-Kickback Act

Connect 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. Connect is required to report any suspected or reported violations to the FTA.

9.2 Contract Work Hours and Safety Standards Act

All contracts issued for construction in excess of ~~\$2,000.00~~ 100,000.00 by Connect 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 that 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 that 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 Procurement Director's Post-Award Responsibilities

The Procurement Director's post-award contract administration responsibilities include the following responsibilities:

10.1.1 Monitoring for Contract Compliance

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

10.1.2 Enforcing Contract Provisions

It is the Procurement Director'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 Procurement Director is the person with authority to approve contract performance so that progress payments or other authorized expenditures of funds to the contractor are made. If relying on the Department Head (or Project Manager), the Procurement Director will develop a process to ensure proper documentation has been reviewed and approved so that 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 Department Head/Project Manager), it is the Procurement Director who has authority to initiate contract changes on behalf of Connect.

10.1.5 Closing Out the Contract

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

10.2 Project Management

The General Manager shall appoint personnel 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 the Project Manager'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). The Project Manager 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 Procurement Director with a copy of or memorandum reflecting all correspondence with the contractor. The Project Manager shall review the progress of all the work on a periodic basis and initiate any required reviews by Connect staff.

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 Project Manager's responsibility to review the contractors' documentation and invoices in relation to the

milestones, work expended, and budget, and to advise the Procurement Director 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 Procurement 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 the General Manager's 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 General Manager shall submit it to Connect Transit Board for prior approval before the change is made. Change orders are subject to the availability of funds.

A cost analysis must be performed and filed in the contract file in connection 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 Connect should set forth each party's responsibilities and rights 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

(d) 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 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 Connect within general scope of the contract
 - (4) provision for termination for default by Connect 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.

(1) 10.5 Assignment of Contract Rights

(2) The Transit System 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. The Transit System shall be able to justify the quantities it procures. The Transit System shall maintain written statements of its anticipated material requirements.

(3)

If the Transit System awards an indefinite-delivery-indefinite-quantity (IDIQ) contract for supplies or services, the solicitation and also the contract award shall include both a minimum and maximum quantity that represent the Transit System's reasonably foreseeable needs.

The Transit System may find that it has inadvertently acquired contract rights in excess of its needs. The Transit System may assign these contract rights to other eligible public transit systems provided that 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, the Transit System may find it useful to acquire contract rights through assignment by another recipient. The Transit System shall first determine that the contract price remains fair and reasonable, and the contract provisions comply with all Federal requirements. The Transit System does not need to perform a second price analysis if a price analysis was performed for the original contract. The Transit System shall be responsible for ensuring the contractor's compliance with FTA's Buy America requirements and execution of all the required pre-award and post-delivery Buy America review certifications. Before proceeding with the assignment, however, the Transit System 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 Connect Transit's choices to specify property and services acquired to meet another recipient's particular needs, and may be less suited to Connect's needs. Connect may use the following options:

Joint Procurements

Whenever feasible, Connect 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 Connect to acquire property and services more closely responsive to Connect's 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 governmental resources may provide attractive procurement opportunities.

10.6 Impermissible Actions

The Transit System 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.

Connect 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’s 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. The Transit System may make changes to seating, fabrics, and colors, exterior paint schemes, signage, and floor covering and other similar changes.

10.7 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, the Transit System 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, the Transit System will consult FTA’s *Best Practices Procurement Manual* and “Frequently Asked Questions” at the FTA Web site: http://www.fta.dot.gov/documents/FTA_Circular_4220.1F.pdf

10.7 Special Contract Requirements

10.7.1 Liquidated Damages Provisions

Connect 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. Connect will not include such provisions in contracts unless:

- (a) the time of delivery is of such importance that Connect can reasonably expect to suffer damage if the delivery is delinquent,
- (b) Connect determines the delivery schedule is reasonable at the time of contract award, and
- (c) damages would be difficult or impossible to establish.

If the Procurement Director determines that 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 Connect Transit's 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, Connect 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 Connect 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 Connect's interests in the progress payments may be used in lieu of obtaining title.

10.8 Insurance Provisions

The Procurement Director 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's 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 Connect and the Connect Board of Trustees, hereafter referred to as Connect, et al for the remainder of this section, and the Contractor with limits of liability not less than those specified below.

(1) Worker's Compensation Insurance**

Providing Statutory Benefits under the Worker's Compensation Act of the State of Illinois and/or any other state or federal law or laws applicable to the Contractor's 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 carrier's right of recovery under subrogation or otherwise from Connect 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's 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) Builder's 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 Connect et. al.

(6) Umbrella Liability

Covering General Liability, Automobile Liability and Employer's Liability with limits of not less than \$42,000,000.00.

(7) Certificates of Insurance

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

Connect Transit
351 Wylie Drive
Normal, Illinois 61761
ATTN: Procurement 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 Connect et. al shall be in form and content acceptable to Connect 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 Connect et. al and licensed to do business in Illinois and shall be in form and content satisfactory to Connect 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 Connect 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's Liability and Umbrella Liability coverage and as required above shall be endorsed to name the Connect Transit et. 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 that the Contractor's insurance is primary to all programs of insurance and self-insurance carried by Connect 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 Connect et. al. In

the event of cancellation of any policy and/or certificate for nonpayment of premium, Connect 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 Connect 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 Connect 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 Connect 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.

The Procurement Director, as contract administrator, shall assure a current certificate is on file at all times during performance of the contract.

(6) 10.9 Prohibited or Restricted Contract Types

(7) 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:

(8)

(1) Cost Plus a Percentage of Cost – Prohibited

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

- a. Permitted to Use, The Transit System has determined that no other contract type is suitable; and

(3) Firm Ceiling Price

If the contract specifies a ceiling price that 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 General Manager. Revenue contracts may have a period of performance beyond 5 years if Connect believes it is in Connect Transit's best interest.

10.11 Contract Termination Provisions

All contracts over \$15,000.00 shall contain provisions for termination for cause and for convenience by Connect including the manner by which it will be effected 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 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 Connect Transit's Procurement Director, in consultation with the General Manager and Legal Counsel, determines that such termination is in the best interests of Connect. Contracts may be terminated for convenience (i.e., a reduced need or otherwise in the best interests of Connect Transit) or for default (i.e., the contractor has failed 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 General Manager 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 Connect. When settlement cannot be made, Connect 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.

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

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 Connect procurements in excess of \$100,000.00 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 sixty percent (60%) content and final assembly in the United States. In purchasing buses, Connect 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 that Connect include in the solicitation a requirement, as a condition of responsiveness, that the bidder or offeror 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, that bid is non-responsive and cannot be considered. Connect 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 or offeror 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. Connect Transit's purchase order states conditions of purchase, including Buy America requirements. It is a condition of Connect Transit's purchase order that when accepting the order, the vendor certifies that Buy America requirements are met. In those few instances where a purchase order is not used, the Procurement Director 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 Connect. Connect Transit's 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 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 Connect Transit's solicitation and award. These requirements are stated in Connect Transit's FTA Master Agreement, FTA Circulars, and in the various regulations themselves. 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's manual includes these provisions and required clauses.

When including "boilerplate" provisions and contract clauses in an IFB or RFP, the Procurement 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 \$500	More than \$500 up to \$10,000	More than \$10,000	More than \$10,000, if higher than \$15,000 requires Board approval	More than \$10,000, if higher than \$15,000 requires Board 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 (costruction. 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 \$100,000	Required if over \$100,000	Required if over \$100,000
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			>\$100,000	>\$100,000	>\$100,000
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

APPENDIX E

FAIR AND REASONABLE PRICE FORM

I hereby determine the price to be fair and reasonable based on at least one of the following:

- Found reasonable on recent purchase
- Obtained from current price list
- Obtained from current catalog
- Commercial market sales price form advertisements
- Similar item in related industry
- Personal knowledge of item procured
- Regulate rate (utility)
- Other _____

*Include all relevant documentation in determining price is fair and reasonable

Purchaser Signature _____

Date _____

Authorized Signature _____

Date _____

