WORKSHOP ON PROCUREMENT

KFH Group, Inc.

October 8, 2025

2025 **TAM** Conference

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Today's Agenda

- **R**ules and Requirements - State and Federal
- **P**rocurement Procedures – Steps and how the rules affect the process
- **T**ools and Resources
- **M**TA Assistance and Concurrence
  - *On-Going compliance and Quarterlies*
  - *Pre-Solicitation Concurrence*
  - *Pre-Award Concurrence*

Session Goal

FTA/MTA grantees must have
<u>Written Procurement Policies and Procedures</u>
that explain how you ensure compliance with federal and state standards and requirements. This session is focused what you need to comply with the federal and state requirements related to procurement involving FTA/MTA funds.

Note: Refer to LOTS Manual Section 4 (although some thresholds have changed)
https://www.taminc.org/mta-program-and-grant-information

What do we mean by procurement?

Anything you purchase with MTA/FTA funds – using capital or operating grant funds

Includes buying things, services, and technology even if the procurement is county-wide

Mobile radios	*Driver uniforms*	*Vehicle maintenance*	*Fuel*
Maintenance services	*Computer hardware and software*	*Vehicles (if not off MTA contract)*	*Revenue contracts*

Why are there requirements?

- To get the best bang for your grant bucks
- To allow for fair competition; open to all potential vendors
- To ensure procurements are done in an ethical manner…. *code of conduct*
- To make sure what you buy, and the vendors you buy from, meet the Federal and State requirements that come with the transit grants

Where do the procurement requirements come from?

Federal requirements are in:

- 2 CFR Part 200, Subpart B, Procurement Standards
- FTA Circular 4220.1G – Third Party Contracting Requirements (4220.1G is guidance so, if conflicting, 2 CFR 200 rules) and FTA Best Practices Procurement Manual
- Related Federal regulations (such as Lobbying, Drug/Alcohol, Buy America/BABA and Disadvantaged Business Enterprise)

State procurement guidelines are in:

- COMAR Title 21, State Procurement Regulations – can refer to State Procurement Manual - https://procurement.maryland.gov/maryland-procurement-manual-table-of-contents/

LOTS Procurement Requirements

You "self-certify" in annual certifications and assurances that local procurements will conform to MTA and FTA standards

You must have written procurement procedures; may be county/city-wide or agency specific

You can use procurement policies and procedures of your jurisdiction or agency but must conform to minimum standards prescribed by MTA and FTA

Procurement requirements apply when purchasing goods or services as well as when seeking contracts with vendors that produce revenue for the system

What FTA and MTA Require
Operationalizing these Concepts

FTA/MTA grantees MUST have Written Procurement Policies and Procedures that explain how you ensure compliance with standards and requirements in 2 CFR 200.318 (General Procurement Standards) through 2 CFR 200.327 (Contract Provisions). These are also embedded in FTA C.4220.1G, although if conflicts – 2 CFR rules

- General Procurement Standards
- Competition
- Methods of Procurement
- Contract Cost and Price
- Contract Provisions

What FTA and MTA Require

General Procurement Standards

- Maintain contract oversight – ensure contractors perform in accordance contract or purchase order
- Maintain written standards of conduct/conflict of interest (Maryland Public Ethics Law in Code, Title 5)
- Avoid buying unnecessary or duplicative items
- Contract only with responsible contractors – including checking SAM and MD list of debarred vendors for procurements over $25,000 *https://bpw.maryland.gov/pages/debarments.aspx*
- Maintain written history to include rational for method of procurement, selection of contract type, contractor selection of rejection and the basis for the contract price
- Limit use of Time and Materials contracts – need ceiling

What FTA and MTA Require

Competition – Level Playing Field

Incorporate a clear and accurate description of the technical requirements for the material, product or service being procured

Identify all requirements which the offeror must fulfill and all other factors to be used in evaluating bids or proposals

Conduct full and competition – avoid provisions that restrict competition such as

- *Placing unreasonable requirements on firms in order for them to qualify to do business*
- *Requiring unnecessary experience and excessive bonding*
- *Specifying "brand name" product instead of "an equal" product to be offered and describing the performance or other relevant requirements*

Exclude the use local geographical preferences

Use and Maintenance of Prequalification Lists, if permitted

Contract with small and minority, women business enterprises, and labor surplus areas

What FTA and MTA Require

Methods of Procurement

Note: Federal micro purchase threshold ($10,000) falls within MD Small Category II so covers some, but not all, of the procurements in that category. Federal Simplified Acquisition ($250K) threshold falls within the MD categories for CSB/IFB, CSP/RFP so federal rules may affect some, but not all, of the procurements in that category.

Federal/ FTA
5 methods

- **Micro-purchases** – currently $10,000 or less *(as of August 2020)*
- **Small Purchases - Simplified acquisition** – currently more than $10,000 but less than $250,000 *(as of August 2020)*
- **Sealed Bids** - $250,000 or over
- **Competitive Proposals** - $250,000 or over
- **Non-Competitive**

State
7methods
(see Table 4-1 in LOTS Manual – thresholds changed)

- **Small Procurements**
  - Category I– up to $5,000
  - Category II – Small Procurement - $5,001 – 15,000
  - Category III – Small Procurement - $15,001 – 50,000
- **Competitive Sealed Bids (CSB)** - Invitation for Bids (IFB) – more than $50,000
- **Competitive Sealed Proposals** (CSP) - Request for Proposals (RFP) – more than $50,000
- **Sole source** – no dollar threshold – only allowed in extremely rare circumstances

What FTA and MTA Require

Contract Provisions

Include **federal clauses** in procurements over micro-purchases (currently $10,000) or in construction

Include **required certifications** in solicitations and receive signed certs as part of bid or proposals

Include **protest procedures**

Do not enter into contracts for rolling stock with a period of performance **exceeding five years** inclusive of options

Comply with **FTA rules** for "Piggybacking"

Comply with **Buy America**, **Build America** and **DBE** requirements

Role of Procurement Officer

The Procurement Officer is responsible for …

ensuring that **prices are fair and reasonable** by **conducting an ICE** for price range of purchases.

encouraging the **distribution of purchases equitably** among local vendors, and ensuring that no geographic preferences are shown in any procurement.

keeping **an annually updated record of all estimates** received and a description of why each vendor was selected.

conveying to vendors that the purchase is made with federal and/or state funds and that by fulfilling the purchase request, the vendor is agreeing to abide by all federal and/or state terms and conditions.

The Procurement Officer is responsible for …

maintaining file copies of all MTA/FTA funded procurements by Fiscal Year and maintaining a written protest procedure.

ensuring that their **procurements do not discriminate** against businesses owned by persons of racial or ethnic minorities or women.

getting **written MDOT MTA concurrence for each procurement** prior to solicitation and prior to award and purchase of goods or services.

Quiz Time

Procurement Steps

How the Federal and State Requirements Get Addressed

Procurement Steps

1 Establish Need

– *Determine whether/what good or service is needed and whether you need to procure that good or service or can obtain it in some other way*

2 Conduct Independent Cost Estimate

– *Establish a reasonable price range for the goods or services you are procuring,*
– *Done regardless of the size of the procurement.*
– *ICE prepared before you receive bids or proposals.*

3 Select Procurement Method

– *use type of project, estimated cost, and federal and state requirements to select the most appropriate procurement method.*
– *Size - Small, Large*
– *Method – quotes, competitive (CSB/IFB versus CSP/RFP)*

4 Develop Final Solicitation

– *Contract documents, as appropriate – CSP/RFP, CSB/IFB/ or request for quotations*
– *Receive approval (concurrence letter) from MDOT MTA before soliciting quotes.*

Procurement Steps

5 **Execute Solicitation, Evaluate and Select Vendor**

– *Advertise (large) or solicit quotes (small)*
– *Questions – Pre-bid and Pre-Proposal Conference*
– *Evaluate Proposals/Bids/Quotes – Price and Cost Analysis, Responsible Bidders*
– *Select vendor*
– *Receive approval (concurrence letter) from MDOT MTA before signed contracts or purchase order*

6 **Award**

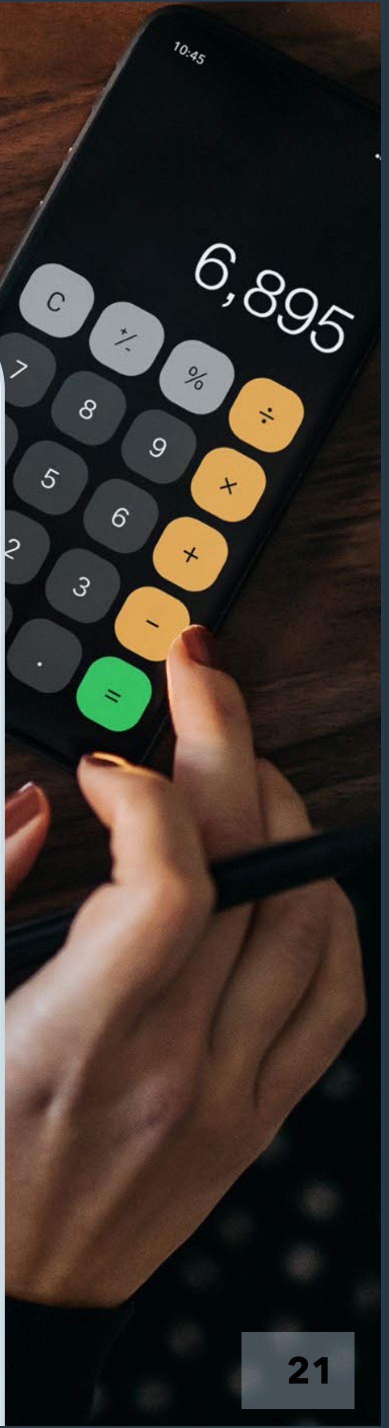
– *Award and Contract*

7 **Contract Administration – Checklists and Documentation**

– *Procurement/Contract Files*

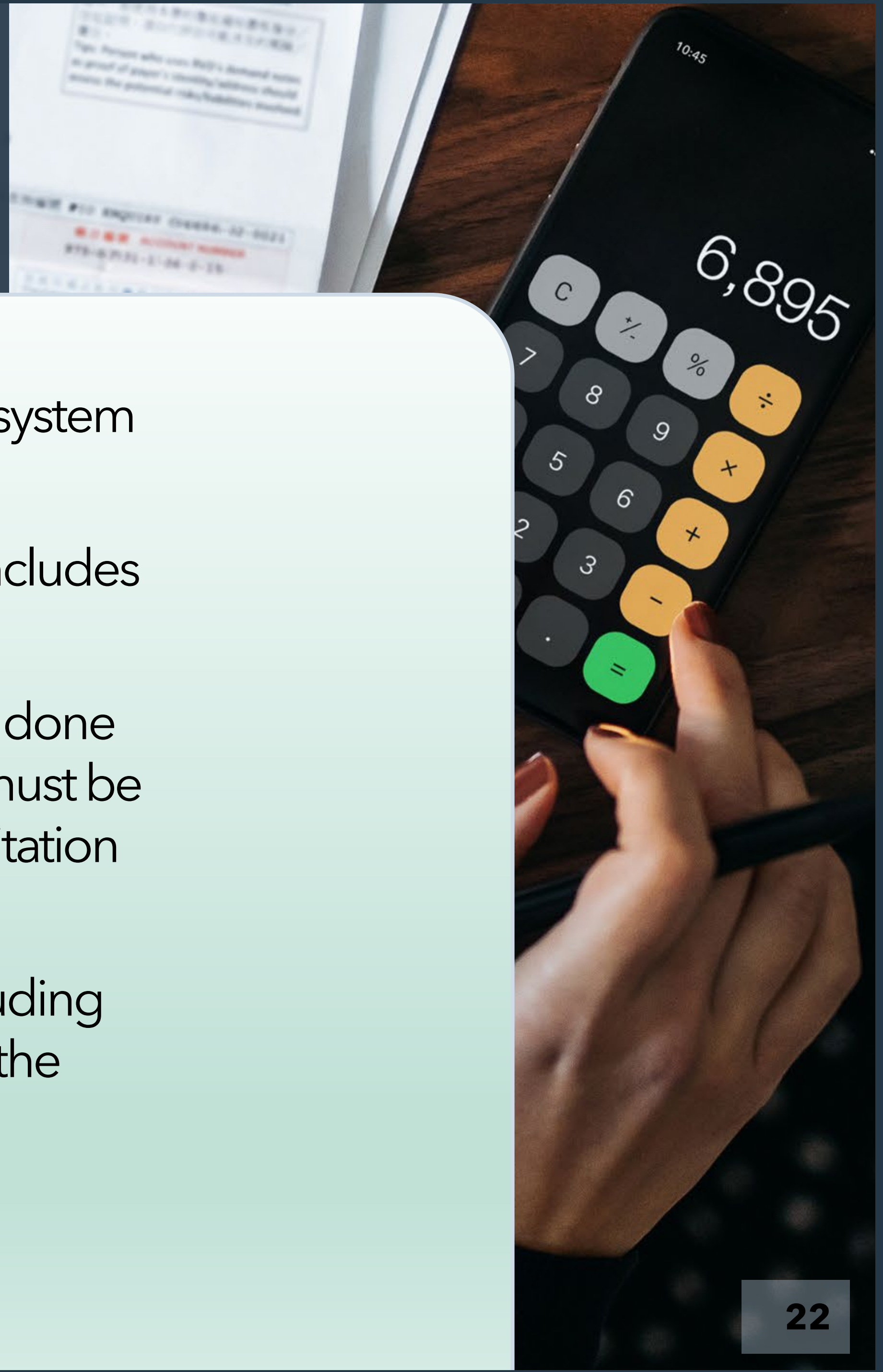
Step 1 Establish Need

- Avoid purchase of unnecessary or duplicative items
- Ask whether the good or service is needed to achieve a goal
- Ask whether the good or service be procured or obtained in some other way, such as:
  - Use in-house staff
  - Re-purpose items such as radios
  - Examine spare ratio



Step 2 Estimate Cost

- **Need to ensure** **best value – most revenue** for the transit system investment
- **Independent Cost Estimates (ICE)** for all procurements, includes exercising of Options
- An ICE is prepared as **initial step** in procurement process – done before receiving bid or proposal. The ICE for capital items must be submitted with ATP and must be sent to MTA with pre-solicitation concurrence documents.
- **Cost or price analysis for every procurement action** including revenue contracts to establish a reasonable price range for the goods or services you are procuring,
- This met by **soliciting quotes** for small procurements



Step 2 Independent Cost Estimate (ICE)

- **ICE is a tool with two purposes**:
  - help determine method of procurement (dollar valued) and
  - assist in determining the reasonableness or unreasonableness of the bid or proposal being evaluated
- The **ICE should be an independent assessment** of what you would expect to pay for a product based on a reliable source such as historical payment, industry standard, or market survey.
- **ICE is prepared before you solicit bids/quotes**. After bids or proposals are received, the ICE can be used as the basis for the cost or price analysis that is required for all procurements.
- **Some form of cost estimate or an ICE is required for all procurements regardless of dollar amount**. An ICE or cost analysis must be performed on any contract modifications (change orders) and before exercising options

Step 2 ICE "How To"

- **More detailed ICEs are required on all procurements** that require competitive procurements
- **Independent estimates can range from a simple budgetary estimate to a complex estimate** based on inspection of the product itself and review of items like drawings, specifications and prior procurement data.
- **Methods to obtain ICEs** can include publicly published price lists, recently invoiced prices, outreach/market surveys or detailed cost analyses
- **May request informal cost estimates from suppliers or manufacturers** in order to develop an ICE. Can use information such as: current market prices for commercial items; estimates based on previous, similar purchases or projects; informal cost estimates from manufacturers for the type and number of items you are procuring; or prices received by other transit agencies for goods or services that are comparable to your project.

Step 2 ICE "How To"

- **The word "independent" does not imply that it is performed by someone other than the grantee**. This could be the case, however, if the grantee does not have the expertise for a large complex procurement.
- **More complicated and formal ICEs are required** on all competitive procurements **over $50,000**.
- **An ICE or cost analysis must be performed** on any contract modifications (change orders) and before exercising new options or orders.
- **All ICEs must document date of the estimate, name of person** who developed it
- **The ICE must be retained in the procurement file**. MTA will verify documentation prior to granting concurrence to proceed with procurement.

Step 2 ICE Short Form Example

Appendix H – ATP – has a long example

CAPITAL ITEM PRIORITY NUMBER:______ DATE OF ESTIMATE:__________

Description of Goods/Services:____________________________________

Method of obtaining the estimate:

Published Price List:
Past Pricing:
Engineering or technical estimate:
Independent third party estimate:
Other:

Cost Estimate Details:

COST OF STANDARD ITEM

PRODUCT	COST EACH	EXTENDED COST	DELIVERED	NO FREIGHT	NOTES/DATA SOURCE	

COST OF SERVICES/REPAIRS/OR NON-STANDARD ITEMS

ITEM/TASK

	DIRECT	OTHER	LABOR	LABOR	ALLOCATED			
MATERIALS	COSTS	COSTS	RATE/HOURS	CLASS	OVERHEAD	SG&A	PROFIT	TOTAL

Step 3 Select Procurement Method

Procurement Method depends on…

Type of project

What you are buying

How much you will be spending
Procurement dependent on estimated cost or revenue anticipated – more expensive projects require more formal procurement process

COMAR dictates threshold….*FTA has higher thresholds*

Local thresholds *may be lower/more restrictive but cannot be higher than COMAR*

Notes:

- *If you purchase items off the State list that are $10,000 or more, you need to include the Federal clauses certifications.*
- *If the purchase is $150,000 or more, it may be subject to Buy America provisions*

Step 3 Select Procurement Method

Table 4-1: PROCUREMENT METHODS REQUIRED FOR LOTS

Amount of the Procurement	Method	Solicitation Methods Allowed
up to $5,000*	Category I Small Procurement	Oral and/or written solicitation - encourage two quotes
$5,001-15,000	Category II Small Procurement	Oral and/or written solicitation from at least 2 vendors
$15,001-50,000	Category III Small Procurement	Written solicitation from at least 2 vendors, which may be supplemented with oral solicitation. Must be posted on the eMMa at least 3 days prior.
more than $50,000	Competitive Procurement-Invitation for Bid (IFB)	Bids are publicly solicited and firm fixed price contract (lump sum or unit price); requires complete specifications and formal solicitation. Appropriate for construction contracts.
more than $50,000	Competitive Procurement- Competitive Sealed Procurement (CSP)/Request for Proposal (RFP)	Proposals are publicly solicited and contract (fixed price or cost reimbursement). Requires formal solicitation and methodology for technical evaluation. Used when price alone cannot determine outcome.
more than $50,000	Architectural and Engineering Services (A&E)	Professional services are publicly solicited, and qualifications of offerors are evaluated without regard to price.
no dollar thresholds but only permissible under extremely rare circumstances	Sole Source	May only be used when award of contract by competitive means is infeasible and certain conditions are met.

*The Federal threshold for micro-purchases is lower for the following two types of projects: (1) For acquisitions of construction subject to the Davis-Bacon Act, $2,000; (2) For acquisitions of services subject to the Service Contract Act, $2,500.

Step 4 Prepare Solicitation Documents

Depend on Procurement Method – oral or written quotes are simple but need to be documented

Solicitation Documents including request for quotes, IFB/CSB or CSP/RFP, need to meet federal and state regulations

- Prepare Contract documents, as appropriate - CSB/RFP, IFB/request for quotations
- Receive approval (concurrence letter) from MDOT MTA before soliciting quotes.

Tool:

Solicitation Templates
& Supporting Documentation

https://procurement.maryland.gov/procurement-staff/templates/

Step 4 Develop Final Solicitation

What goes into the request for quotes or bids? Elements include:

- Form signed by bidder that, if offer is accepted, serves as a binding contract
- Solicitation instructions and conditions – where, when and how to submit
- Pre-bid or pre-proposal conference and questions
- General provisions "boilerplate forms" include information needed to assess vendor qualifications
- Special contract requirements of provisions related to this particular solicitation
- No in-State or local geographical preferences
- Specifications, statement of work, scope of work describing what you are buying, including A&E requirements where applicable

Step 4 Develop Final Solicitation

What goes into the request for quotes or bids? Elements include:

- Protest Procedures
- Evaluation measures and procedures to ensure full and open competition
- Federal clauses and certifications for procurements over micro ($10,000)
- Disadvantaged Business Enterprise (DBE)/TVM requirements.
- If applicable, Buy America requirements and provisions requiring pre-award and post-delivery audits
- Transit Vehicle Manufacturer (TVM) letter from vendor; TVM must be in bid documents as requirement to bid.
- If applicable (vehicle procurements), Federal Motor Vehicle Safety Standards, FTA bus testing requirements, and other requirements
- Bonding (construction over $100,000), employee protections, assignability clause, etc.

Step 4 FTA Contract Clauses

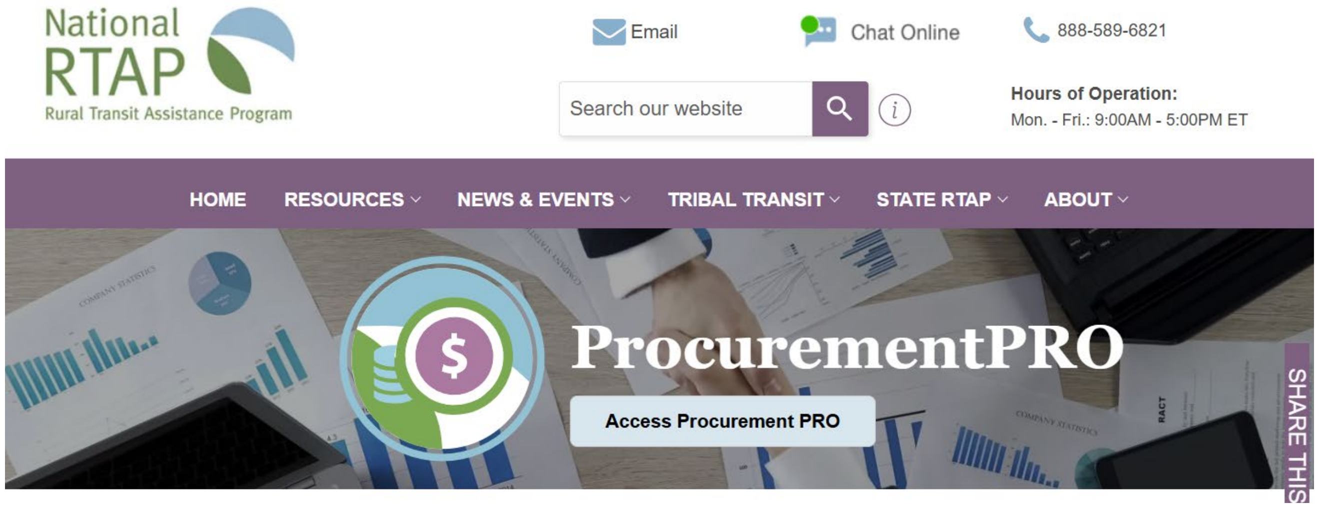
Include in all procurements over the Federal Micro-Purchase Threshold – currently $10,000

https://www.transit.dot.gov/sites/fta.dot.gov/files/2025-09/Third-Party-Contract-Provisions-Matrix-September-2025.pdf

General Provisions Applicable to All Contracts							Additional Provisions for Contracts for Construction, Mechanics, or Laborers			Additional Provisions for Other Special Situations	
PROVISION	All Contracts	Contracts > $10K	Contracts > $25K	Contracts > $100,000	Contracts > $150,000	Contracts > Simplified Acquisition Threshold ($250,000 as of May 2025)	Contracts > $100,000 Involving Laborers, Mechanics	Prime Construction Contracts > $2,000	Federally Assisted Construction Contracts	Contracts Under Funding Agreements with Small Businesses or Nonprofits	Contracts Where Ocean Transport is Possible
Prohibition on Covered Telecommunications and Video Surveillance Equipment or Services (2 CFR 200.16, 2 CFR Appendix II (K))	X	X	X	X	X	X					
Federal Tax Liability and Recent Felony Convictions (DOT Order 4200.6; MA 33 § 4(g)(2))	X	X	X	X	X	X					
Special Notification Requirements for States (MA 33 §37) *	X	X	X	X	X	X					
Domestic Preferences for Procurements (2 CFR 184, 2 CFR 200.322 & 2 CFR Appendix II (L)) (Note: This is separate from Buy America.)	X	X	X	X	X	X					
Procurement of Recovered Materials (40 CFR 247, 2 CFR 200.323 & 2 CFR Appendix II (J))		X	X	X	X	X					
Termination Clauses (2 CFR Appendix II (B))		X	X	X	X	X					
Notification of Fraud, Waste, Abuse, or Misconduct to the U.S. DOT Inspector General (False Claims Act, 31 U.S.C. § 3729 et seq. & MA 33 §39(b))			X	X	X	X					
Debarment and Suspension (2 CFR 180.220 & 2 CFR 200 Appendix II (H); MA 33 § 4(h)(4) & § 39(b))			X	X	X	X					
Byrd Anti-Lobbying Amendment (31 U.S.C.				X	X	X					

Step 4 Procurement – Federal Clauses

All written contracts/purchase orders that involve use of federal funds must include FTA clauses (generally revenue contracts do not)



Tool - ProcurementPro

National Rural Transit Assistance Program (RTAP) ProcurementPRO – *web application that helps sift through what applies*

http://nationalrtap.org/Web-Apps/ProcurementPRO

Step 4 RTAP Procurement Pro

Title	Created	Modified	Edit	Archive	Status	Download
TAM Test	10/06/2025				In Progress	ProcurementPRO QuickPRO

Full Version

The full version of ProcurementPRO provides federally required clauses, certifications, and other useful documentation for your project(s). It offers the ability to create, save and edit a project; creates a printable document; and is organized in a tab format to help you manage project flow and files. LOTS are strongly encouraged to start using the full version when developing a new solicitation.

QuickPRO

This is a shortened version of ProcurementPRO built for the transportation professional who wishes only to secure the necessary federally required clauses and certifications but not manage a project online. Users are able to print the required clauses and certifications but cannot save projects for future reference. LOTS must now use QuickPRO for showing compliance with federal clauses and certifications.

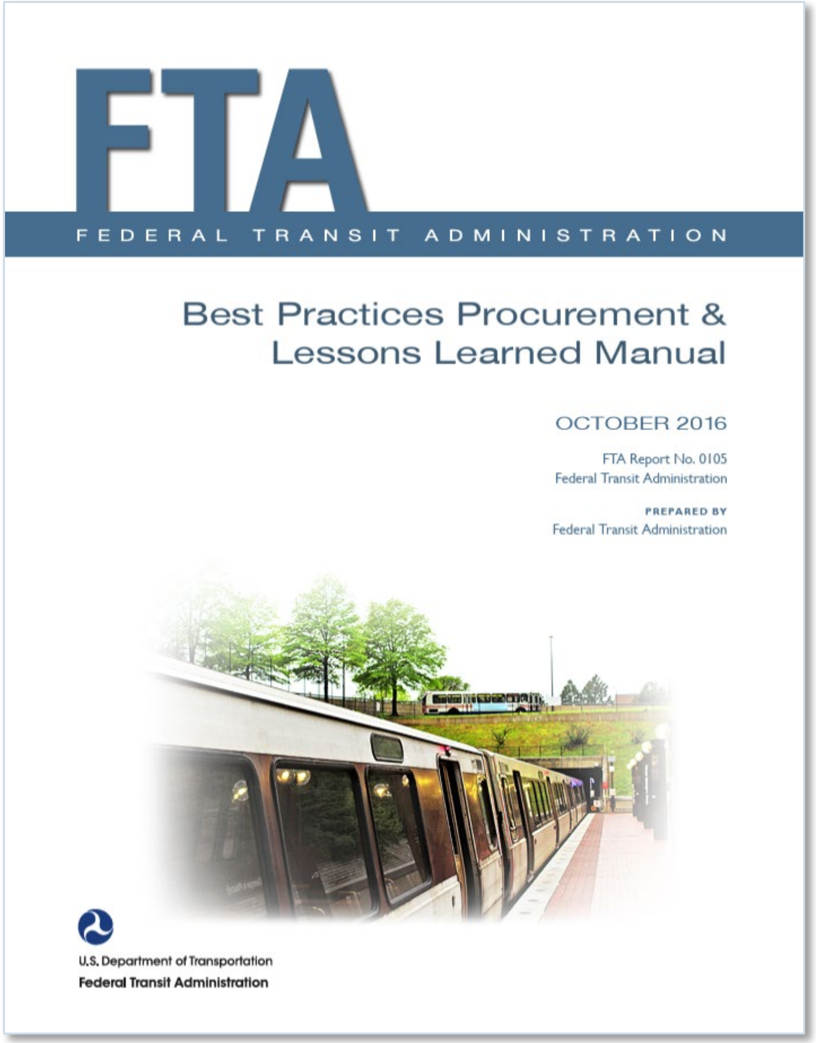
Step 4 FTA Contract Clauses

Sample Contract Clauses:

LOTS Manual

– *Appendix A of FTA's Best Practices Procurement Manual*

https://www.transit.dot.gov/funding/procurement/third-party-procurement/best-practices-procurement-manual



Step 4 Some Notes on Specific Clauses

- Buy America
- DBE

Step 4 FTA Contract Clauses

Buy America

All purchases made with federal funds must comply with Buy America, Build America (BABA) regulations. New BABA requirements added in 2022 give domestic preferences for building materials

LOTS must purchase steel, iron, and manufactured products that are produced in the United States for FTA-funded projects, unless the FTA has granted a waiver or the product is subject to a general waiver

Revenue service rolling stock not subject to a general waiver must be assembled in the United States and have a 70% domestic content.

FTA issued a General Public Interest Waiver for Small Purchases – small purchases statutorily defined as $150,000 or less.

Step 4 FTA Contract Clauses

Disadvantaged Business Enterprise

LOTS must provide DBEs the maximum opportunity to compete for and perform contracts and subcontracts financed in whole or in part with federal funds.

LOTS must develop a DBE Plan, with assistance from MTA.

LOTS set a project-specific DBE goal if project is expected to exceed $50,000. Submit to MTA for approval.

LOTS must submit semi-annual DBE reports (to MTA) and/or FTA TVMs for vehicle procurements.

– LOTS submit TVM reports to FTA **for direct vehicle procurements.**
– MTA submits TVM reports to FTA **on vehicles procured through the state contract.**

Step 4 MTA Concurrence

Do not got start solicitation until MTA has reviewed and approved solicitation documents

Step 4 MTA Concurrence

Pre-Solicitation Concurrence for Procurements (Over $1,000 capital/$5,000 operating)

- **Send copy of specifications / request for quotes to MDOT MTA and request concurrence.**
- **Request for pre-solicitation concurrence packet must include:**

Letter requesting concurrence with proposed solicitation	*Written Procurement Policies*	*Code of Ethics*	*Protest Procedures*	*ICE Form*
Spreadsheet with rationale for ICE	*Proposed rationale for method of procurement and contract type*	*Specifications*	*Request for Quotes*	*Contract Clauses*

- **Receive approval (concurrence letter) from MDOT MTA before soliciting quotes or advertising IFB or RFP.**

Step 5 Execute, Evaluate and Select Vendor

Execute/ Advertise

Evaluate

Select Vendor

Verify Vendor is Responsible Party

Obtain Pre-Award Concurrence from MTA

Step 5 Execute Small Solicitation

Small Procurements (state limit-$50,000; federal $250,000). State requires quotes from an adequate number of sources (two are required but three are preferable). These also apply to revenue contracts. Compare prices from different vendors to ensure price is fair and reasonable

Category I - Small – under $5,000

- Solicitation may be oral or written
- Selection based on quotes with notes to file
- Distribute purchases equitably among qualified vendors in the area
- No purchases can be split to be under the dollar threshold to avoid competition.

Category II - $5,001 - $15,000

- Solicitation may be oral or written
- Selection based on written or published quotes (catalog cuts, quotes on company letterhead)
- No purchases can be split to be under the dollar threshold to avoid competition.

Category III - $15,000 - $50,000

- Solicitation must be written or published (may be supplemented with oral solicitations)
- Selection must be based on written quotes
- Must have a written contract or purchase order
- Notice on eMMA at lease 3 days before offers are due

Step 5

Execute Small Procurements

Type of quote depends on estimated cost

Solicitation may be oral or written – more formal the more $

Request quotes or research prices from at least two but preferably three vendors. Request must be written or published regardless of size of purchase.

If in Category III (over $15,000) need to advertise to promote full and open competition – eMMA . If advertise solicitation on eMMA, also must publish a notice of award

No purchases can be split to be under the dollar threshold to avoid competition.

Step 5 Execute Large Procurements

If you plan to conduct a large procurement

- Anticipate a longer and more complicated process
- Contact your MDOT MTA Regional Planner
- Review LOTS Manual

Step 5

Execute Large Procurements

- Advertise to promote full and open competition - eMMA
- Hold pre-bid or pre-proposal meetings or conference calls, if needed
- Answer questions – distribute answers to all vendors
- Receive and evaluate proposals and perform a cost or price analysis in connection with every procurement action, including contract modifications.
- For vehicle procurements over $150,000, obtain Buy America Certifications, showing actual proposed and as-built content; documented road and vehicle delivery inspections mandatory; FMVSS Certifications, both proposed and as-built

Step 5 Evaluate Vendor – Basis of Award

Table 4-1: PROCUREMENT METHODS REQUIRED FOR LOTS

Amount of the Procurement	Method	Basis for Award
up to $5,000*	Category I Small Procurement	judgment of the procurement officer
$5,001-15,000	Category II Small Procurement	most favorable bid price or evaluated bid price, or most advantageous offer
$15,001-50,000	Category III Small Procurement	most favorable bid price or evaluated bid price, or most advantageous offer
more than $50,000	Competitive Sealed Bid (CSB) - Invitation for Bid (IFB)	lowest price responsible bidder; may be multi-step with technical (pass/fail) then cost
more than $50,000	Competitive Sealed Proposal (CSP) - Request for Proposal (RFP)	select best value based on technical proposal, price, and other factors as identified in the solicitation
more than $50,000	Architectural and Engineering Services (A&E)	Price negotiation with most qualified offeror. Failing agreement on an acceptable price, negotiations with the next most qualified offeror.
no dollar thresholds but only permissible under extremely rare circumstances	Sole Source	After competition is determined inadequate, single source is solicited or offers a proposal.

*The Federal threshold for micro-purchases is lower for the following two types of projects: (1) For acquisitions of construction subject to the Davis-Bacon Act, $2,000; (2) For acquisitions of services subject to the Service Contract Act, $2,500.

Step 5 Evaluate All Procurements for Fair and Reasonable Price

Cost or price analysis required for every procurement decision, to ensure you are getting a fair and reasonable price.

Conduct a cost or price analysis when reviewing offers (including contract options), and before deciding whether to execute options down the road

The Independent Cost Estimate (ICE) required at the beginning of the procurement process gives a base line of comparison as you conduct your price/cost analysis when you are reviewing bids or proposals–as well as in reviewing contract options.

Step 5 Evaluate Small Procurements Up to $50,000

- Selection may be made based on oral or written quotes with notes to file
- Ensure price is fair and reasonable (below)
- Distribute multiple purchases equitably among qualified suppliers
- Select best quote meeting all local procurement requirements.
- Select vendor based on judgment of your procurement officer
- Evaluate whether the vendor is "responsible" party – check SAM.gov and Maryland excluded parties list for procurements $25,000 and over to ensure each vendor isn't excluded.

Step 5 Evaluate Large Procurements

Evaluate using criteria and process in IFB or RFP

Select best proposal – lowest cost (IFB) or best value (RFP)

Need to justify sole source and single bid awards

Step 5 Evaluate Large Procurements for Fair/Reasonable Price

Sole Source Procurements is LAST RESORT may be used only when award is infeasible under conventional procurement methods. Cost analysis is MANDATORY to determine that the price is fair and equitable

Piggybacking allowed with restrictions

Tag-Ons prohibited

Need to justify sole source and single bid awards

Price versus Cost Analysis

- Price analysis considers the total proposed price without examining separate cost elements. Price analysis is appropriate when there is adequate price competition, prices set by law or regulation, catalog and market prices, comparison to previous purchases, comparison to your ICE, and value analysis.
- Cost analysis looks at each cost element to determine if it is reasonable. Cost Analysis is needed when price competition is insufficient to determine the reasonableness of a proposed cost; and for sole source procurements.

Step 5 Select Only Responsible Parties

- Prohibited from contracting for goods and services from individuals or organizations that have been suspended or debarred from receiving federally-assisted contracts.
- Search the System for Award Management (SAM) and Maryland State debarment list to verify vendors have not been excluded from entering into contracts funded with federal/state monies.

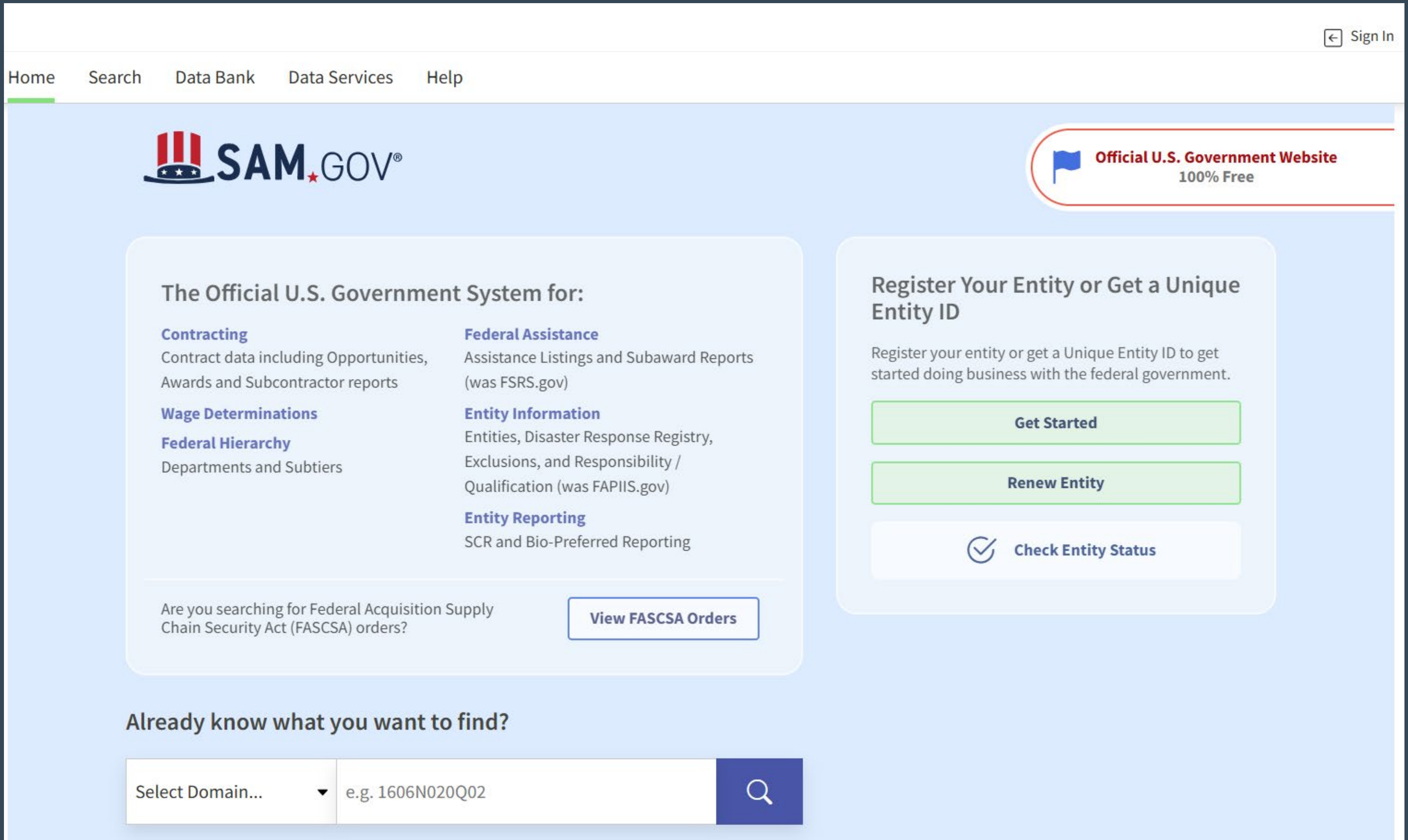
  https://sam.gov/
- This must be documented and placed in the procurement file. MTA verifies this documentation prior to granting concurrence to proceed.

Step 5 "How To" Validate Responsible Bidders

- **Debarment, Suspension and Exclusion (if over $25,000)**
  - Check GSA System of Award Management (SAM) for excluded parties
  - Check Maryland debarment and suspension list
- **Technical Capacity**
  - Experience, technical skills, staff experienced, past performance, quality assurance practices
- **Financial Capacity**
  - Adequate cash flow, financial resources, accounting and bookkeeping practices to track allowability of costs
- **Ability to carry Out Terms of Contract**
  - Production capacity, performance on contracts of existing size and complexity, ability to staff on schedule
- **Licenses and Professional Certification, if needed**

Step 5

Award to Responsible Parties

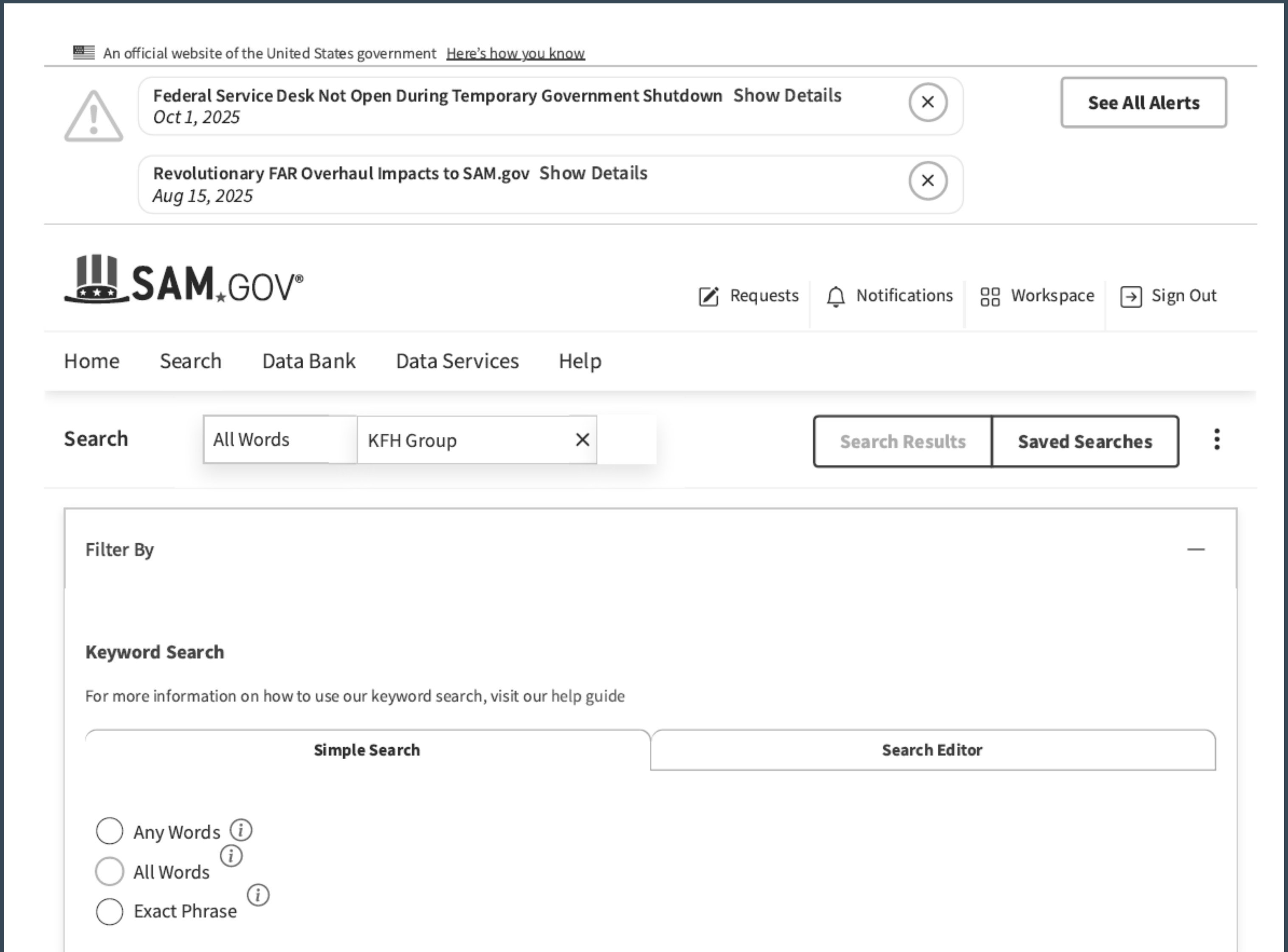


https://sam.gov

Step 5

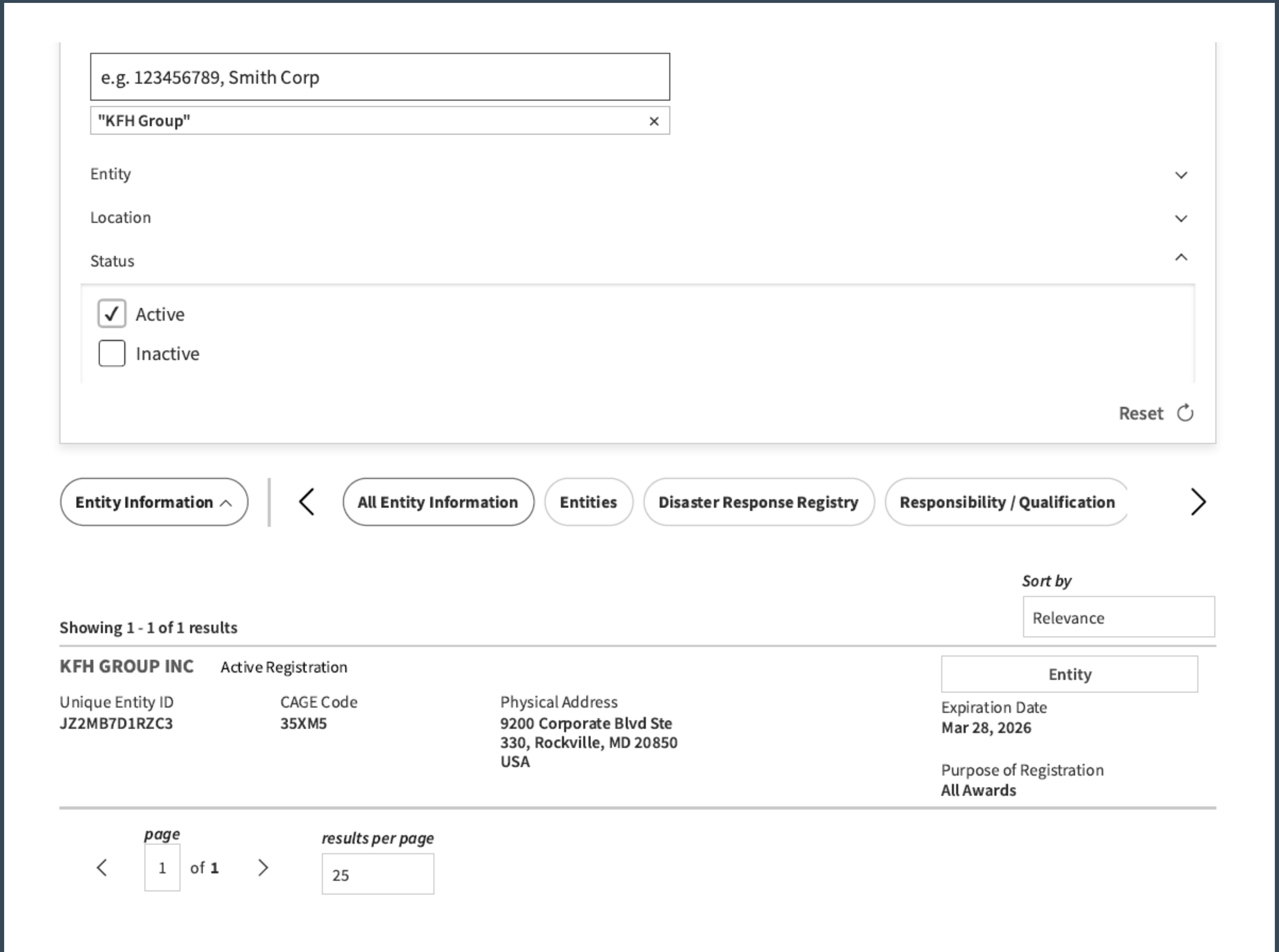
Award to Responsible Parties

https://sam.gov/



Step 5

Award to Responsible Parties



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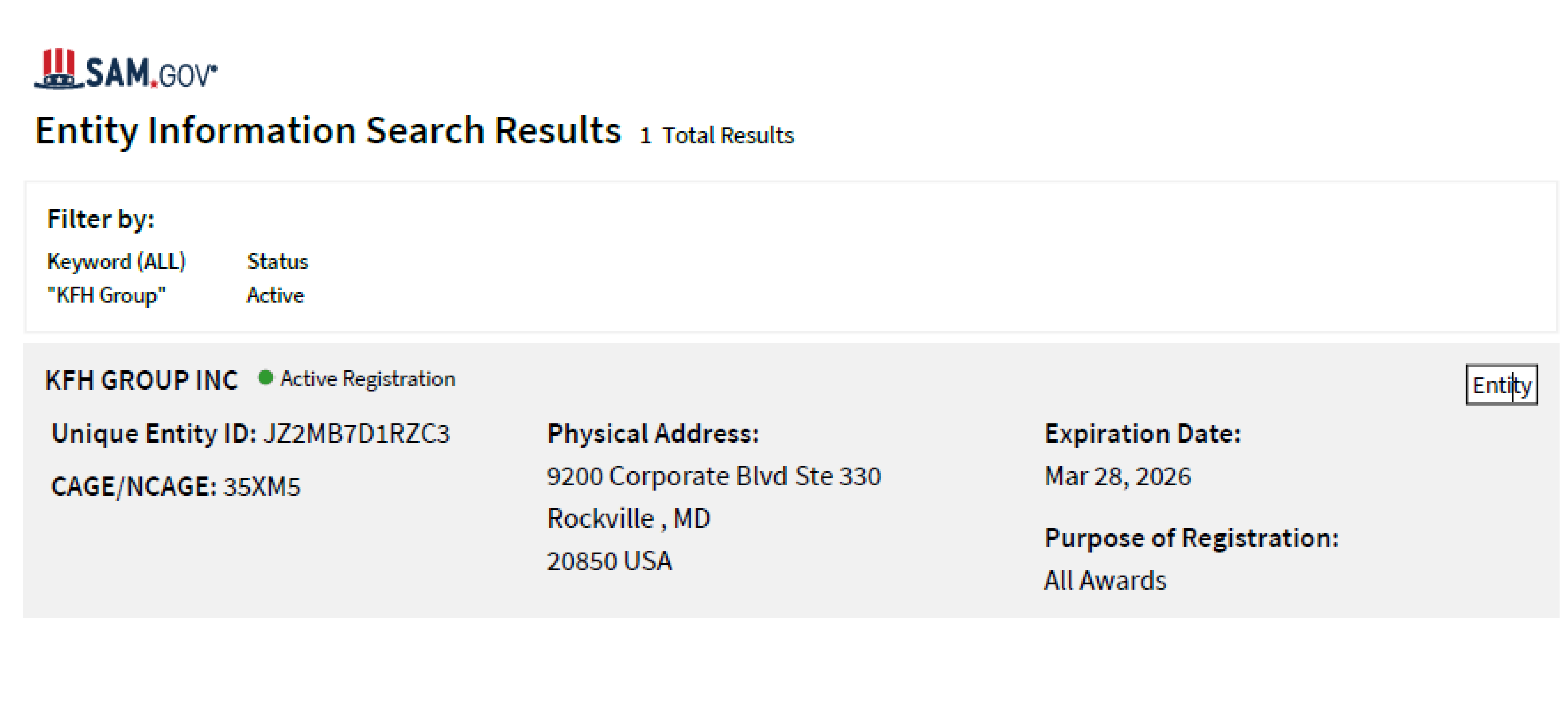
Step 5 Award to Responsible Parties



https://sam.gov/

Step 5 MTA Pre-Award Concurrence

Request concurrence for:

CAPITAL grant purchase over **$1,000**

OPERATING grant purchase over **$5,000**

Request for concurrence on selected vendor packet must include:

- Letter requesting concurrence with preferred quote
- Documentation of outreach/advertising
- All quotes received
- SAM.gov and MD debarment list screen shots
- Cost or price analysis
- Justification for selecting quote
- Contract type to be awarded
- Draft contract with clauses
- Protest Procedures

Step 6 Award/Purchase for Quotes

For Small Procurements	Make the purchase and obtain invoice/receipt.
	Submit Request for Payment to MDOT MTA within 60 days of receipt, attaching all invoices/receipts.
	Maintain copies of everything in procurement file.

Step 6 Award/Purchase for Bids

For larger – competitive procurements	Notify selected and rejected proposers
	Deal with any protests (follow protest procedures)
	Award and execute contract/purchase order. Must be in writing with applicable FTA clauses.
	Submit Request(s) for Payment to MDOT MTA within 60 days, attaching all invoices/receipts.
	Maintain copies of everything in procurement file

Step 7 Contract Administration/ Written History

For each procurement, need to document:

- **Establishment** of the need
- **Independent cost estimate** (ICE)
- **Rationale** for the method of procurement
- **Solicitation document(s)** (e.g., The formal RFP, IFB, or other form of written solicitation)
- **Documentation of outreach efforts** – if required, use eMMA e-Maryland Marketplace
- **Debarment/ suspension documentation** – "responsible bidder"
- **Contractor responses**/bids/proposals/quotes
- **Fair and equitable price or cost analysis** of winning proposal (basis for contract price)
- **Contractor selection or rejection**
- **Correspondence with vendors**
- **Buy america documentation**, where applicable
- **DBE forms**, search and outcome
- **Copy of signed and executed final contract** and any amendments
- **MTA sign-offs**


Quiz Time

Tools/Resources

Procurement – Additional Resources

FTA's Best Practices Procurement Manual (BPPM)
https://www.transit.dot.gov/funding/procurement/third-party-procurement/best-practices-procurement-manual

Third Party Contracting Guidance, FTA Circular 4220.1G
https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/Third%20Party%20Contracting%20Guidance%20%28Circular%204220.1F%29.pdf

FTA Master Agreement
http://www.fta.dot.gov/documents/17-Master.pdf

APTA's Standard Bus Procurement Guidelines
https://www.apta.com/research-technical-resources/standards/procurement/apta-bts-bpg-gl-001-13/

National RTAP's ProcurementPRO
https://www.nationalrtap.org/Technology-Tools/ProcurementPRO

LOTS Manual: Section 4 - Procurement and Contracting

https://www.taminc.org/mta-program-and-grant-information

Tool – LOTS Manual Procurement Steps-Process for Small Procurements

For projects below State Category I, II or III or local threshold

1. Identify the need
2. Apply to MTA for funds, receive award letter from MTA, execute and return grant documents to MTA.
3. Determine procurement method (based on ICE in ATP).
4. Develop specifications.
5. Request at least three quotes.
6. Receive and review quotes (include Cost/Price Analysis).
7. Select best quote meeting all local procurement requirements.
8. Send copy of proposed winning offer and list of "losing" offers to MTA for concurrence for items needing concurrence.
9. Request concurrence/approval from MTA to make purchase.
10. Receive concurrence/approval before making purchase.
11. Submit Request for Payment to MTA within 60 days of receipt of materials, equipment, or services procured, attaching all invoices/receipts.

If over $1,000 Capital grant/$5,000 Operating grant, MDOT MTA concurrence is required prior to issuing purchase order or awarding contract

Tool – LOTS Manual Procurement Steps-Process for Competitive Procurements

<u>For projects exceeding State or local small procurement threshold</u>

1. Apply to MTA for funds.
2. Receive award letter from MTA.
3. Execute and return grant documents to MTA.
4. Determine procurement method.
5. Develop specifications and assemble RFP/bid package.
6. Submit to MTA Regional Planner for review and approval.
7. Receive approval from MTA.
8. Advertise project, to solicit bids/proposals/quotes.
9. Receive, open, and review responses.
10. Evaluate responses.
11. Select best response meeting all local procurement requirements.
12. Send complete copy of proposed winning offer and list of "losing" offers to MTA for concurrence.
13. Request concurrence/approval from MTA to award contract.
14. Receive concurrence/approval from MTA.
15. Award and execute contract.
16. Submit Request for Payment to MTA within 60 days of receipt of materials, equipment, or services procured, attaching all invoices/receipts.

Notes on Special Procurement Issues

DBE/TVM Reporting

Joint Procurement versus Piggybacking

Revenue Contracts

Notes on Special Procurement Issues

Vehicle Procurements TVM Reporting

Transit vehicle manufacturers (TVMs) certify to FTA that they comply with DBE requirements

Only those TVMs listed on FTA's certified list at the time of solicitation or award can be used.

Include a provision in your bid specifications requiring the TVM certification as a condition.

A list of certified TVMs is available at the FTA website: https://www.transit.dot.gov/regulations-and-guidance/civil-rights-ada/eligible-tvms-list. Document in procurement file

When procuring vehicles directly, upon award, you must notify FTA vehicle awards using the TVM Award Reporting Form located online through the FTA's DBE Webpage - Transit Vehicle Award Reporting Form. You have 30 days

For vehicles ordered off the state contract, MTA submits TVM reports to FTA when vehicle is ordered.

Notes on Special Procurement Issues

Vehicle Procurements TVM Reporting

Vehicle Award Report

49 CFR 26.49(a)(4) requires FTA recipients to report its vehicle procurement awards

Please submit the following information within 30 days of the award:

* **1. Recipient Name**

* **2. Recipient ID #**

* **3. Please select the FTA Regional Office that serves your transit agency**

* **4. Select the Transit Vehicle Manufacturer (TVM) awarded the contract**

* **5. Contract Award Dollar Amount**

* **6. Contract Award Date**

MM / DD / YYYY

Please enter a valid date

* **7. Provide agency point of contact**

Name

Phone Number

Notes on Special Procurement Issues

Joint Procurements versus Piggybacking

Joint Procurement

More than one agency will simultaneously go through the procurement process that addresses the needs of all of the agencies involved. A great deal of advance planning is needed to do this successfully.

Piggybacking

The post award practice of allowing an entity that was identified in the original procurement to purchase the same supplies or equipment through the original contract - only allowed under specific situations>>>

1. The original solicitation must include an assignability clause that provides for the assignment of all or part of the deliverables as originally advertised and competed.
2. The original solicitation and contract must contain both a minimum and maximum quantity.
3. No additional quantities can be added.
4. Units must be as originally specified with no "cardinal changes."
5. Sub-recipients must identify to Regional Planner where and how "piggyback" procurement meets all applicable FTA procurement requirements prior to request for concurrence.

See Piggyback checklist in LOTS Manual from FTA's *Best Practices Procurement Manual*

Notes on Special Procurement Issues

Revenue Contracts

Revenue Contracts are third party contracts intended to either generate revenue in connection with transit-related activity or create business opportunities using FTA/MTA-funded assets. For example,

- Leasing advertising space on vehicles
- Leasing space within a transit facility
- Leasing space to an outside ticketing agent

Use Same Competitive Selection Process

- "Full and Open Competition" – to ensure fair and equal access to FTA-Assisted property
- "Best Value" – to maximize revenue derived from the property

Notes on Special Procurement Issues

Revenue Contracts PRINCIPLES

- Independent Cost Estimates (ICE) are required for revenue contracts
- Unsolicited proposals do not justify sole source contracts
  - Evaluate concept on its own merit and revenue producing potential
  - Then - use competitive selection process to select a vendor
  - If proposed concept itself is proprietary
- If opportunity is open to all willing vendors then competition is not needed (for example, you offer to rent space in your transit center to any business and set $ per square foot or operate an in-house program to directly lease ad space to all willing advertisers)
- Must seek MTA guidance on any revenue contract

Notes on Special Procurement Issues

Revenue Contracts PRINCIPLES

- Need to ensure DBE opportunities:
  - take all necessary and reasonable steps to allow DBEs to have maximum opportunity to participate
  - Include full estimated value of revenue contracts in annual calculations when determining whether you need to set overall agency DBE goal.
  - Set a DBE goal for this revenue contract if revenue is expected to exceed $50,000. Submit to MTA for approval.
- Proceeds must be applied back to operating budget as operating revenue. Cannot be used 1) as local match for operating grants in the year in which they were earned or 2) for capital items
- Discuss revenue earned with MTA during quarterly meetings
- **Document! document! document!**

MTA Compliance And Assistance

MTA Compliance And Assistance

- Review Written Policies and Procedures
- Procurement policy must state that when using FTA/MTA funding, will follow FTA C. 4220.1 and COMAR or grantees must have a letter from head of procurement stating that when using FTA/MTA funds, will comply with FTA and MTA procurement rules.
- Review procurement files for a number of procurements to ensure policies and procedures were followed
- Provide assistance to come into compliance as needed

Written Procurement Policies & Standards

LOTS Written Procurement Policies/Procedures must have:

- Maintain contract oversight – ensure contractors perform in accordance contract or purchase order
- Contract administration system – roles and responsibilities
- Maintain written standards of conduct/conflict of interest (Maryland Public Ethics Law in Code, Title 5)
- Avoid buying unnecessary of duplicative items
- Method of Procurements based on estimated cost and items being procured
- Contract only with responsible contractors – on procurements over $25,000, check SAM and MD list.
- Maintain written history to include rational for method of procurement, selection of contract type, contractor selection of rejection and the basis for the contract price
- Limit use of Time and Materials contracts
- Incorporate a clear and accurate description of the technical requirements for the material, product or service being procured
- Identify all requirements which the offeror must fulfill and all other factors to be used in evaluating bids or proposals

Written Procurement Policies & Standards

LOTS Written Procurement Policies/Procedures must have:

- Conduct full and competition – avoid provisions that restrict competition such as
  - Placing unreasonable requirements on firms in order for them to qualify to do business
  - Requiring unnecessary experience and excessive bonding
  - Specifying "brand name" product instead of "an equal" product to be offered and describing the performance or other relevant requirements
- Exclude the use local geographical preferences
- Use and Maintenance of Prequalification Lists, if permitted
- Contract with small and minority, women business enterprises, and labor surplus area
- Cost or price analysis for every procurement action
- Written procedures for handling complaints, settling disputes
- Written selection procedures
- Inclusion of federal/state contract provisions and certification

Procurement policy must state that when using FTA/MTA funding, will follow FTA C. 4220.1 <u>or</u> grantees must have a letter from head of procurement stating that when using FTA/MTA funds, will follow C. 4220.1

MTA Concurrence

MTA Review and Concurrence

Operating Funds - MTA requires LOTS to consult with Regional Planner on any MTA or FTA funded purchase greater than $5,000 prior to making purchase/award.

Revenue Contracts - MTA requires LOTS to consult with Regional Planner on any revenue contract with anticipated revenue over $50,000 that involves MTA or FTA funded equipment or facilities.

Capital Funds - All purchases with capital grants need a concurrence letter prior to making purchase/award if over $1,000.

All purchases made through written solicitation process, regardless of the funding sources or cost threshold, need a concurrence letter.

Additional MTA concurrence process is required for all procurements over $50,000 (requiring an IFB, RFP, etc.)

- LOTS contact Regional Planner to arrange meeting to review draft solicitation document.
- LOTS submit final solicitation document to Regional Planner for approval (may require another meeting and MTA review will take weeks for large bids).
- Regional Planner provides approval letter prior to solicitation release.
- LOTS submit documentation to Regional Planner on vendor selection.
- Regional Planner provides concurrence letter prior to execution of contract or purchase order.

MTA Review and Concurrence

Pre-Solicitation

MTA must review and concur on solicitation documents prior to advertising or soliciting quotes – Submit the following for review

- Initial Independent Cost Estimate (ICE)
  - was written estimate of cost based on reasonable assumptions and similar projects
  - Conducted for "options" and "change orders"
- Method of procurement
  - appropriate for estimated cost and items being procured
- Request for Quotes/Contract Clauses
- DBE Goal analysis and PRG review, if applicable

MTA Review and Concurrence

Pre-Solicitation

MTA must review and concur on solicitation documents prior to advertising or soliciting quotes – Reviewing:

Review solicitation docs for:

- federal terms and conditions and lobbying certification (certs may be signed with the solicitation or included in the contract)
- a clear and accurate description of the technical requirements for the material, product or service being procured
- all requirements which the offeror must fulfill and all other factors to be used in evaluating bids or proposals
- factors that will be used to determine a “responsible” contractor. LOTS must perform a Responsibility Determination.
- Written protest procedures with right to appeal
- DBE goal consistent with MTA process and level

MTA Review and Concurrence

Pre-Solicitation

MTA must review and concur on solicitation documents prior to advertising or soliciting quotes – Looking at:

Review solicitation docs for:

No factors that would limit competition

- No geographical preferences
- No unreasonable requirements on firms in order for them to qualify to do business
- No requiring unnecessary experience and excessive bonding
- No specifying "brand name" product instead of "an equal" product to be offered and describing the performance or other relevant requirements

MTA Review and Concurrence

Pre Award

Materials to Submit to MTA

- Intent to Award
- Any Protests and resolution
- Copy of advertised contract/bid document and any changes/addendums
- Proof of advertisement and evidence of public bid opening
- Formal bidder's list
- Lobbying Certification
- Copy of Price Analysis (must include full extended contract term, with all options included, and all add-on additional equipment)
- Copy of Responsible Vendor Determination - copy of SAMS and Md Debarment searches
- DBE responses - All DBE requirements and goal setting must be satisfied prior to award, including PRG review.
- Link to ProcurementPro file, if used

MTA Review and Concurrence **Pre Award**

MTA must concur in writing on the recommendation for award prior to execution of a contract of issuing purchase orders. Reviewing:

- How procurement was advertised
- Names of vendors and bids
- Number of bids received - were adequate number of bids received to evaluate fair and reasonable price
- Were bids evaluated based on the evaluation criteria in the solicitation criteria
- Is selected vendor responsible – checked SAM and MD Debarment Suspension list and documentation of other factors

MTA Review and Concurrence **Pre Award**

MTA must concur in writing on the recommendation for award prior to execution of a contract of issuing purchase orders. Reviewing:

- Were federal clauses in the contract and certifications signed
- Were DBE/SBE goals met - All DBE requirements and goal setting must be satisfied prior to award, including PRG
- Was the appropriate cost/price analysis performed – is bid a fair and reasonable price when compared to ICE?
  - *Price analysis considers the total proposed price without examining separate cost elements. Price analysis is appropriate when there is adequate price competition, prices set by law or regulation, catalog and market prices, comparison to previous purchases, comparison to your ICE, and value analysis.*
  - *Cost analysis looks at each cost element to determine if it is reasonable. Cost Analysis is needed when price competition is insufficient to determine the reasonableness of a proposed cost; and for sole source procurements.*
- Does cost/price include any options – comparing apples to apples? Were they included in the cost/price analysis

Quiz Time

Key Takeaways

Follow your own written policies and procedures.

Follow the appropriate checklist for every grant-funded purchase.

MDOT MTA concurrence is needed at two stages for most procurements.

Keep a procurement file for every procurement. Document every step for every grant-funded purchase. Keep copies of everything in the file.

Thank You!