MICRO-PURCHASE TOOLKIT

Wisconsin Department of Transportation

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MICRO-PURCHASE TOOLKIT

1.0 Scope. This toolkit provides recipients of Federal Transit Administration (FTA) funding under grants through the Wisconsin Department of Transportation (WisDOT) with specific policies and procedures for making micro-purchases of supplies and services (including construction) in amounts not to exceed $3,000. It applies to all micro-purchases funded, in whole or in part, by the Federal Transit Administration (FTA). As such, where appropriate, references to FTA Circular C 4220.1 (as amended) have been footnoted.

2.0 Purpose. This toolkit provides recipients with micro-purchase procedures in order to:

a. Save time – Reduce administrative costs by promoting the use of common procedures;

b. Attain the best price – Promote competition to the maximum extent practicable for all micro-purchases;

c. Facilitate approval – Promote efficiency and economy in making micro-purchases; and

d. Help ensure compliance with FTA Circular 4220.1 requirements (as amended) applicable to third party contracts funded, in whole or in part, by the FTA.

3.0 Definitions. The terms used throughout this toolkit are defined as follows:

"Authorized individual" means a person who has been granted authority, in accordance with local procedures, to buy supplies and services using micro-purchase procedures.

"Brand Name" means the name of a product or service that is limited to the product or service produced or controlled by one private entity or by a closed group of private entities. Brand names may include trademarks, manufacturer names, or model names or numbers that are associated with only one manufacturer.

"Catalog price" means a price included in a catalog, price list, schedule, or other form that is regularly maintained by the manufacturer or vendor, is either published or otherwise available for inspection by customers, and states prices at which sales are currently, or were last, made to a significant number of buyers constituting the general public.

"Commercial item" means any item, other than real property, that is of a type customarily used by the general public and which has been sold, leased, or licensed to the general public or which has been offered for sale, lease, or license to the general public. This includes installation services, maintenance services, repair services, training services, and other services if such services are procured for the support of a commercial item and the potential source provides similar services to the general public.

"Competitive quotation" means an informal solicitation to at least three known suppliers of goods or services to confirm specifications, terms, and pricing for a specific purchase requirement.

"Fair and reasonable" is a pricing concept that can be described as *the price that a prudent businessperson would pay for an item or service under competitive market conditions, given a reasonable knowledge of the marketplace*.[1] A "fair and reasonable" pricing determination must be made for every procurement which uses FTA funds.

"Formal solicitation" refers to two very different procurement methodologies--sealed bid or negotiated proposal. In the first, sealed price bids are obtained from suppliers responding to a publicly advertised Invitation for Bids (IFB). Sealed bids are publicly opened and recorded, evaluated strictly against the stated IFB criteria, and awarded based on price to the lowest responsive and responsible bidder. In the second instance, sealed proposals are obtained from suppliers responding to a publicly advertised Request for Proposals (RFP) to provide a solution to a problem or desired outcome. Proposals are not opened publicly and are evaluated, negotiated, and awarded based on price and other weighted factors stated in the solicitation.

"Independent cost estimate (ICE)" means an estimate of the anticipated cost or price to be paid for an item, service, or project that is developed by an entity or entities not associated with the item, service, or project to be procured. To be considered "independent," the estimate cannot be developed by any potential source, supplier, or provider of the item, service, or project. However, it is acceptable to have an "independent" third party develop the estimate for the purchasing activity as long as that party has no interest in bidding or offering on the procurement. For more complex procurements, the ICE represents the documented result of a practical and unbiased analysis, assessment, and quantification of all costs and risks associated with a particular procurement. The ICE must be based upon the procurement's technical specifications. Irrespective of the procurement's complexity, the ICE serves as an essential tool for conducting the subsequent required cost or price analysis.

"Informal solicitation" refers to the micro-purchase method of soliciting supplier quotes in writing or via telephone or fax. This method differs significantly from the solicitation of bids or proposals for more complex items, services, or construction using sealed bids (IFB) or negotiating offers after the issuance of an RFP.

"Market prices" means current prices that are established in the course of ordinary trade between buyers and sellers free to bargain and that can be substantiated through competition or from sources independent of the offerors.

"Micro-purchase" means an acquisition of supplies, services, and construction in amounts up to and not-to-exceed $3,000, using the procedures described in this toolkit.

"Micro-purchase procedures" means the informal methods described in this toolkit for making micro-purchases using a cash account, credit cards, and purchase orders.

[1] FTA Circular 4220.1F clearly establishes the requirement for a recipient (or recipient) to determine a price to be "fair and reasonable" before purchase orders are placed or contracts awarded.

"Price Analysis" is the process of examining and evaluating a proposed price without evaluating its separate cost elements and profit/fee. The end result of any price analysis should always be a determination that the quoted price is "fair and reasonable" and the basis for such a determination.

"Procurement" refers to a range of activities related to purchasing goods, services, and construction. It is a process that typically begins with the specification, proceeds through solicitation and award, and ends with receipt, acceptance, and payment.

"Purchase order" means an offer by a recipient to buy supplies or services (including construction) under specified terms and conditions, using micro-purchase procedures.

"Qualified supplier" means a supplier who has the abilities, qualities, attributes, etc., necessary to perform the work required or furnish the items or services solicited.

"Recipient" means both subrecipients and WisDOT Transit Section Staff.

"Responsible" refers to a set of tangible characteristics which would make an apparent low quoter eligible for award.

"Salient characteristics" means those qualities of an item that are essential to ensure that the intended use of the item can be satisfactorily realized. The term is used in connection with a "brand name or equal" purchase description.

"Splitting requirements" refers to the practice of breaking down known requirements into two or more purchases to reduce the dollar value of each to below the micro-purchase thresholds in order to be able to use micro-purchase procedures or otherwise circumvent more restrictive full-and-open competitive procedures. FTA prohibits the practice of splitting requirements.

"Subrecipient" means a Wisconsin entity, such as a local government, Indian tribe, or non-profit, that expends FTA grant funds received from WisDOT to carry out a program.

4.0 Procurement Process. As the designated recipient of FTA grant funds, WisDOT must ensure that recipients are aware of and comply with Federal procurement requirements delineated in FTA Circular C 4220.1 (as amended). In order to qualify for maximum reimbursement, all purchases made by recipients with FTA funds must follow appropriate procurement procedures. As such, recipients are encouraged to:

a. Make the appropriate WisDOT Program Manager aware of its intent to purchase a good or service before the procurement is initiated.

b. Work with the appropriate WisDOT Program or Procurement Manager to ensure proper steps are followed throughout the procurement process.

c. Submit clear and complete documentation via email to WisDOT before issuing a purchase order.

5.0 Principles. When making micro-purchases, authorized individuals must:

a. Comply with all applicable local and WisDOT standards of conduct restricting the solicitation or acceptance of gifts, gratuities, favors, or anything of monetary value from contractors or potential contractors.

b. Not "split" requirements in order to use micro-purchase procedures.[2] Periodically review purchases to discern procurement patterns for a particular product or service.

d. Facilitate competitive opportunities to the maximum extent practicable by--

1. Using appropriate specifications and avoiding unduly restrictive specifications; such as, specifying only a 'brand name' product instead of allowing 'an equal' product to be offered without listing its salient characteristics.

2. Soliciting at least three qualified suppliers unless the recipient can determine that the price quoted by a single source is "fair and reasonable;"

3. Distributing micro-purchases equitably among qualified suppliers in the local area.[3]

e. Prior to recommending or making any award follow the process outlined on the Procurement History File Checklist Appendix I

6.0 Quotations, Orders, and Acceptance. This section discusses quotations, types of orders, and acceptance.

6.1 *Legal Effect of Quotations*.

a. A quotation is not an offer and cannot be accepted to form a binding contract. Issuing a purchase order in response to a quotation does not establish a contract. The order is only an offer to the supplier to buy the supplies or services under the order's specified terms and conditions.

b. A contract is established only when the supplier accepts the recipient's offer by:

1. Signing the purchase order before delivery and returning it to the recipient (if the nature of the procurement warrants such procedure);

2. Furnishing the recipient with the supplies or services ordered; or

3. Proceeding to carry out the order to the point where substantial performance has occurred.

[4] FTA Circular 4220.1F, VI, 3.a.(2)(b).
[3] FTA Circular 4220.1F, VI, 3.a.(2)(a).

6.2 *Written Purchase Orders*. WisDOT's preferred method for making micro-purchases is for the recipient to issue a written purchase order following the receipt of quotes. When sent to a supplier, the purchase order acts as the recipient's offer to buy at the prices and under the terms and conditions stated in the order. When received and accepted by the supplier, the purchase order becomes an agreement having the same force and effect as a formal contract.

a. **Unilateral Purchase Orders**. When sent to a supplier without requesting the supplier to sign and return a copy, the order is a unilateral (one party) document.

1. A unilateral order is an offer to contract, i.e., to buy at the prices and under the stated terms and conditions. Issuing the order by itself gives no assurance that the supplier will provide the requested delivery or performance, nor does it obligate the supplier to perform.

2. Only when the supplier accepts the purchase order by performance does the unilateral order become a formal contract. The supplier accepts simply by proceeding to furnish the supplies or services ordered or by proceeding to carry out the order to the point where substantial performance has occurred.

b. **Bilateral Purchase Orders**. For some purchases, it is desirable to know immediately whether the supplier has accepted the purchase order. For example, written acceptance may be desirable when the time of delivery or performance is critical, when the recipient has experienced problems with the supplier in the past, or when the contract is for services.

1. A bilateral (two party) purchase order becomes a formal contract when both parties have signed the order.

2. The recipient sends the purchase order to the supplier requesting that the supplier sign and return a copy of the order or provide any other form of written notification indicating receipt and acceptance.

7.0 Applicable Federal Clauses. With the exception of construction procurements, no Federal clauses, including Buy America clauses, are required for micro-purchases. The clauses listed below apply to micro-purchases of construction, alteration, or repair (including painting and decorating) of public buildings or public works in amounts ranging from $2,000 to $3,000.

Davis-Bacon Act
Copeland Anti-Kickback Act

8.0 Micro-Purchase Methods. Procurement methods are those procedures by which an organization translates its needs into contracts. Such methods establish the manner for soliciting bids or offers, evaluation, and supplier selection.

a. Many organizations use a combination of methods when making micro-purchases from commercial sources. These may include oral (telephone) ordering, written

Purchase Order, Petty Cash fund, or credit cards. The last two methods are more appropriately viewed as methods of payment for micro-purchases.

b. Micro-purchases may be made without obtaining competitive quotations. However, WisDOT recommends that recipients seek at least three quotes, if practicable.

8.1 Informal Solicitations. For most micro-purchases, an informal solicitation may be made in writing, through email, or by fax (using the Request for Quotation Form at Appendix C), at the buyer's option.

a. *Requesting quotations*. Give all potential quoters the same item description or specification as well as a closing date and time by which quotations should be submitted.

1. To help facilitate competition, solicit at least three qualified suppliers.

2. If soliciting only source, rotate the placement of orders among qualified suppliers.

3. It is good practice to keep records of items purchased, suppliers awarded, and associated dollar amounts to help in monitoring the equitable distribution of like orders placed through the year.

4. If only one quote is received, contact WisDOT Procurement Manager to discuss options on that procurement.

b. *Ordering*. Normally, a written purchase order is issued shortly after receiving and evaluating either quotes.

1. The forms at Appendix C, Request for Quotation, and Appendix F, Micro/Small Purchase Source List and Abstract, are provided to help document the required actions prior to the issuance of any purchase order.

d. *Purchasing construction and construction-related services*. The Davis-Bacon Act provides that contracts in excess of $2,000 to which the United States is a party (i.e., federal funds are involved) for construction, alteration, or repair (including painting and decorating) of public buildings or public works within the United States must contain a clause that no laborer or mechanic employed directly upon the work site shall receive less than the prevailing wage rates as determined by the Secretary of Labor.

1. Typically, a general wage determination is used which contains prevailing wage rates for the types of construction designated in the determination and used in contracts performed within a specific geographical area. These determinations do not expire and remain valid until modified, superseded, or canceled by the Department of Labor.

2. Wage determinations are available online at: http://www.wdol.gov/Index.aspx

3. Wage determinations must be included with the applicable request for quotations/solicitation document and retained in the micro-purchase file.

9.0 Micro-Purchase Procedures. If followed consistently, the procedures discussed below will help ensure that recipients are reimbursed for micro-purchases in a timely manner and to the maximum extent possible.

9.1 *Restrictions on use*. Micro-purchase procedures may not be used when:

a. There is a possibility that the procurement will exceed the micro-purchase threshold. If there is any chance that the procurement will potentially exceed the micro-purchase threshold, use the approved Small Purchase procedures.

b. Purchasing products or services in which there are complex questions to be considered or specific contract provisions to be included (inspection and testing, insurance, patents, price adjustments, etc.).

c. Purchasing complex studies and services or other requirements which may require technical evaluation or involved negotiations, and where award cannot be made confidently on the basis of low price. In these cases, use more formal methods for soliciting sealed bids or requesting proposals.

d. Purchasing consultant services which may require a more defined work statement and multiple delivery schedules or deliverables.

9.2 *Use appropriate specifications*.

a. Excessively detailed specifications are not appropriate for micro-purchase transactions and may discourage potential sources from providing a quote. Use a specification which describes the agency's needs clearly and accurately.

b. When there is no clear and accurate description available, a "brand name or equal" description may be used. In this case, describe only the salient characteristics of the named brand that suppliers must provide.[4] The purchase description should address only those important physical, functional, or other characteristics of the "brand name" product that an equal product must have in order to meet the recipient's needs.

9.3 *Develop an independent cost estimate*.

a. Each recipient must make an independent cost estimate before receiving bids or proposals in order to be able to perform the cost or price analysis required for every procurement action.[5] Appendix B, Independent Cost Estimate, provides a form which can be used for developing and documenting the required cost estimate.

b. If prepared with sufficient detail and reliability, the estimate alone may be sufficient to determine whether the quoted price is "fair and reasonable."

[4] FTA C 4220.1F, VI, 2.a.(3).
[5] FTA Circular C 4220.1F, VI, 6.

c. Sources of independent cost estimates can include:

1. Published hard-copy or Internet-based catalog or price lists (citing the source(s));

2. Past pricing from recent contracts or purchase orders, adjusted for inflation if appropriate (identifying the specific contracts/purchase orders);

   (Note: For comparative pricing purposes, there is no requirement to limit comparisons to FTA-compliant contracts. For example, if the same or similar item has been purchased by a municipal police or public works department, it is acceptable to use those prices as long as the sources are properly identified and adjusted to reflect inflation, etc.)

3. Estimates developed by in-house engineering or technical personnel; and

4. Estimates developed by independent third-party firms.

9.4 *Solicit an adequate number of sources*. FTA recommends solicitation of at least three firms for each micro-purchase to ensure that an adequate level of competition is attainable. However, there may be justifiable circumstances where a recipient chooses to solicit only one source (e.g., an OEM replacement part where an existing equipment warranty might otherwise be jeopardized).

a. Micro-purchases are obtained informally through unsealed quotes (written or oral), unsealed bids, or by unsealed requests for proposals.

b. If a purchase requisition form is used, competitive quotes can be noted on the form. Alternatively, Appendix F provides a Micro/Small Purchase Source List and Abstract which can be used as a single document for noting such things as the sources sought, quotes received, winning supplier, basis for award, etc. This documentation must be retained in the micro-purchase file.

c. No micro-purchase should be awarded without the recommended number of quotations. Whether or not the recipient chooses to solicit only one source (see lead-in to Section 9.4, above) or multiple sources, it must always document the basis for finding the proposed awardee's price to be "fair and reasonable."

9.5 *Evaluate quotes*. Evaluate all quotes received on the basis specified in the solicitation, inclusive of transportation charges from the supplier's shipping point to the delivery destination. Discounts offered should not be evaluated (because they may not actually be taken) but must be stated on the purchase order document.

9.6 *Determine price reasonableness*.

a. Federal policy is to contract for supplies and services at fair and reasonable prices. FTA Circular 4220.1 (as amended) clearly establishes the requirement for a recipient

to determine a price to be "fair and reasonable" before purchase orders are placed or contracts awarded.

b. The price analysis for micro-purchases may be limited. One method to record this price analysis is through the use of a preprinted form, such as that provided at Appendix G, Cost/Price Analysis. Among other things, the form allows the authorized individual to annotate a finding of "fair and reasonable" pricing

c. When conducting price analysis, it is important to:

   1. Develop and examine data from multiple sources which will help prove or suggest that the proposed price is fair;

   2. Determine when multiple data consistently indicate that a given price represents a good value for the money.

   3. Document the data sufficiently to convince a third party reviewer that the conclusions are valid. This will include a statement that, "The price is fair and reasonable because it was within x% of the ICE."

d. The Federal Acquisition Regulation (FAR) discusses several price analysis techniques by which a proposed price for a particular procurement can be determined to be "fair and reasonable."[6] These techniques can be used singly or, if quoted prices vary significantly between offerors, used in combination with each other to help explain any significant price variances. The techniques are briefly described below:

   1. <u>Comparison of proposed prices received</u>. Normally, adequate price competition establishes price reasonableness. This is the most commonly used technique, as the majority of procurement actions attract two or more offers that are competing independently for the award.

   2. <u>Comparison with previously proposed or awarded prices</u>. This comparison must be for the same or similar items. If using contract prices which are a year or more old, use an appropriate Consumer or Producer Price Index to update the contract price. In addition, both the validity of the comparison and the reasonableness of the previous price(s) must be established and documented in the determination.

      (Note: For comparative pricing purposes, there is no requirement to limit comparisons to FTA-compliant contracts. For example, if the same or similar item has been purchased by a municipal police or public works department, it is acceptable to use those prices as long as the sources are properly identified and adjusted to reflect inflation, etc.)

[6] FAR 15.404-1(b)(2).

3. Using parametric estimating methods or application of rough yardsticks. For example, comparing the proposed price per square foot for a certain type of building construction against an established commercial cost per square foot.

4. Comparison with competitive published catalogs or price lists. These may be hard-copy or Internet-based and include published market prices of commodities, similar indexes, and discount or rebate arrangements**.**

5. Comparison with independent cost estimates. See Section 9.3, above.

6. Comparison with prices obtained through market research for the same or similar items. For example, trade journals, newspapers, and economic indexes can provide useful comparative information.

7. Analysis of pricing information provided by the offeror. This "catch-all" category includes information that does not fall into the other categories and may include verifiable sales information for like or similar items sold to the supplier's other customers.

9.7 *Determine supplier "responsibility."* The recipient must make a written determination that the apparent low quoter is "responsible" before making the award.

a. For most micro purchases, this is a relatively simple matter to research and can be documented by checking the appropriate blocks on the Micro/Small Purchase Source List and Abstract form (Appendix D).

b. Data to help determine whether a potential supplier is responsible is available from multiple sources including in-house experts familiar with the supplier, external agencies or customers, and the System for Award Management (SAM) managed by the General Services Administration. SAM can be accessed at:

https://www.sam.gov/portal/public/SAM/

In addition, the State of Wisconsin, Department of Workforce Development, maintains a *"Consolidated List of Debarred Contractors"* at:

http://dwd.wisconsin.gov/dwd/publications/erd/pdf/erd_10908_p.pdf

9.8 *Document the file.*

a. Purchase Terms and Conditions. The applicable terms and conditions, including any required Federal clauses, are normally stated on or included with the recipient's purchase order document. Suppliers should be notified that the recipient's terms and conditions shall govern.

1. If a supplier acknowledges a purchase order with additional qualifying terms such as "prices subject to change prior to delivery" or "prepayment required," deal with it promptly. Such an acknowledgement is a counteroffer and entitles the recipient

to cancel the order outright or return the counteroffer as unacceptable and attempt to negotiate acceptance of the governing terms.

2. If the terms of the counteroffer are acceptable, and do not conflict with the standard terms and conditions, the counteroffer may be accepted. If there is any question as to the acceptance of the supplier's terms and conditions, contact WisDOT for advice. If prompt action is not taken, the recipient may be held to have accepted the supplier's terms.

c. The Procurement History File. At a minimum, the Procurement History file must contain or address the following items or elements:

1. A Written History of Procurement;

2. An independent cost estimate and any supporting documents;

3. As applicable, a funded Purchase Request with an appropriate item description or specification;

4. Evidence of competitive quotes solicited and evaluated as well as any supporting documents;

5. Price analysis and a determination that the price is “fair and reasonable” and any supporting documents;

6. A written determination that the proposed contractor is “responsible;”*

7. Evidence of any required approvals (e.g., WisDOT);

8. A copy of the written and signed Purchase Order.

9. Any additional supporting documents (e.g., wage determination).

9.9 *Obtain appropriate approvals.* WisDOT must approve all federally-funded micro-purchases before the recipient places a written or oral purchase order. As such, WisDOT encourages recipients to work collaboratively with WisDOT to ensure that recipients are in full compliance with this toolkit and are able to show documented evidence to support the recommendation and decision to make a micro-purchase award.