**Five Phases of a Procurement Transaction**

* Procurement Transaction Preparation
	1. Planning
	2. Solicitation Preparation
* Procurement Transaction Execution
1. Evaluation
2. Award Preparation
3. Contract Administration

A graphic representation of the process provides a visualization of the phases and the elements to each phase.  The elements as defined in rules and regulations are to support the goal of the efficient and effective use of program funds for the maximum benefit to the users of the services.



The following outline provides a general flow of a procurement transaction and is compiled from rules and regulations found in 2 CFR §§200.318 – 200.327, Procurement Standards, and the FTA Circular 4220.1F, Third Party Contracting Guidance, and as is further explained and examples given in the FTA Best Practices Procurement Manual and the FTA Procurement FAQ website.

TDOT review is required for all Small Purchase and Formal Purchase procurements at the points noted on the procurement process timeline.  You should note that some elements listed in the general flow do not apply to Small Purchase type procurements (such as a formal publicity plan is not completed as the Small Purchase procurement is executed by the recipient calling an adequate number of responsible suppliers for quotes).

**Procurement Transaction Preparation –** A well prepared procurement will better ensure compliance and efficiency.

1. **Planning** – This phase of the procurement transaction extends throughout the recipient’s purchasing cycle.  Goods and services used to provide program services are planned to meet program objectives at the appropriate time.
	1. **Specifications** – Goods and services to be used in programs are to be clearly and accurately defined in a manner that is not restrictive of competition.  The specifications should focus on the performance required of the good or service rather than its technical characteristics.  The specifications should enable the participation of the greatest number of responsible suppliers rather than restrict competition by using limiting specification descriptions.
	2. **Necessity** – A documented recipient review of need for a good or service to be procured is required.  A determination of need is based on a recipient’s reasonable expectation of need for a good or service at the time the recipient is to make a purchase.
	3. **Independent Estimate** – Before any discussions or quotes from vendors the recipient must make an independent estimate of the price or cost of the goods or services to be procured.  This estimate is the first step in the recipient’s effort to determine the market price or cost of the goods or services.
2. **Solicitation Preparation** – This phase of the procurement transaction takes the information compiled from the planning phase to guide the path to use for preparing the market solicitation documents.
	1. **Procurement Method** – Based on the independent estimate of the goods or services, the use of the procurement method is determined.  The procurement method can first be determined from the Micro-Purchase, Small Purchase, or Formal Purchase categories, based on the estimated value.
	2. **Contract Type** – One of the minimum requirements for the written record of procurement history is the rationale for the selection of contract type.  Contracts can be fixed price contracts, cost reimbursement contracts, but must not be a cost plus a percentage of cost contract.
	3. **Publicity Plan** – The recipient’s plan to advertise the procurement should be planned, documented, and included in the written record of procurement history.  The advertisement text and placement must be planned and documented.  The specifications, including options if requested, developed in the planning phase are included.  The contract type must be disclosed. All evaluation criteria to be used to evaluate suppliers must be disclosed in the solicitation advertisement.  In addition, any information that could be needed in the evaluation or award phases, such as the information needed to make the responsibility determination, should be included in the solicitation.

**For all Small Purchase and Formal Purchase procurements, once the solicitation has been prepared, all planning and preparation documentation must be sent to TDOT for the first TDOT procurement transaction process review.  TDOT will send a notice to proceed with the publicity plan after review and acceptance of the procurement planning and solicitation preparation documentation.**

**Procurement Transaction Execution –** After receiving the letter to proceed with the publicity plan, the recipient should complete the procurement publicity plan and run the procurement.

1. **Evaluation** – After receiving the letter to proceed, completing the publicity plan, and running the procurement, the recipient must evaluate the responses received from suppliers.
	1. **Advertisement** – The public notice advertisement and documents that make up the total procurement information package, must contain all specifications of the good or service to be procured, any options with the intention to exercise, supplier requirements, contract type, required clauses and certifications to be completed, the procurement protest procedures, and disclose the evaluation factors that will be used to select the winning supplier. Complete the publicity plan and place public notices to inform potential suppliers of the solicitation invitiation.  Communicate to disadvantaged business enterprises (DBEs) through DBE information forums and contact Cynthia.Howard@tn.gov in the TDOT Title VI office to provide opportunity for increased DBE participation.
	2. **Receive Responses** – Receive responses from suppliers and hold public bid opening, if bids are used.  Document any official opening of record of the procurement.  Any bids or proposals received should be time stamped and those received early should be kept locked up until the schedule selection time.  Required signed certifications, such as if Buy America or Lobbying clauses are applicable, must be returned and included with supplier responses.
	3. **Supplier Selection** – The recipient evaluates the supplier responses received based only upon the evaluation criteria described in the recipient’s advertised solicitation invitation.  The winning bid is determined based upon the responsible supplier with the lowest price.  The winning proposal is determined based on the best value to the recipient, which is a consideration of the combination of the lowest price and the technical proposal score evaluation.  One of the minimum requirements for the written record of procurement history are the reasons for contractor rejection and the reasons for contractor selection.
	4. **Requirements Analysis** – After completing a procurement, the recipient should reflect on the supplier selection and analyze the procurement history to confirm that a competitive procurement did occur.  If suppliers who did not respond give the specifications as the reason for their lack of response, then competition was most likely inadequate, and if the recipient wishes to move forward with the single supplier, a sole source justification must be completed.
2. **Award Preparation** – Prepare the agreement document to be used to document the acquisition of the good or service from the selected responsible supplier.
	1. **Responsibility Determination** – The recipient’s supplier responsibility determination is to be included in the written record of procurement history.  The determination is made for the winning supplier after they are selected.  Part of the determination is to confirm that the supplier is not debarred or suspended from federal or state procurements.  Documenting the result of a SAM.gov search is the most assured way to confirm the supplier is not in a restricted status.  A clause in the agreement to be executed or a certification signed by the supplier can also be used but provide lesser assurance.
	2. **Performance Period** – The rationale for the selection of the performance period should be included in the written record of the procurement history.  The recipient and the supplier must agree upon a performance period for the delivery of the procured goods or services.  The period should be reasonable and not exceed the time necessary to accomplish the purpose of the agreement.  Rolling stock agreements are limited to a total of five years.
	3. **Payment Provisions** – The rationale for the selection of the payment method should be included in the written record of the procurement history.  Payment upon delivery or performance of the good or service will be the payment method for most procurements as it is at this time that title, ownership, or possession passes from the supplier to the recipient.
	4. **Price/Cost Analysis** – One of the minimum requirements for the written record of procurement history is the basis for the contract price.  In addition, a price or cost analysis is required of procurements greater than the simplified acquisition threshold ($250,000). The price or cost analysis is completed after selecting the winning supplier’s offer to confirm the determination that the price accepted is fair and reasonable.
	5. **Contract/Purchase Order** – A contract document, purchase order, or some other agreement document, which includes the specifications and required clauses as advertised in the solicitation, must be executed with the supplier for the initiation of the transaction. Wait to execute the agreement with the supplier until after receiving the TDOT letter to proceed with award.

**Once the procurement has been advertised, the supplier has been selected, the performance period and payment provisions documented, price or cost analysis completed and the agreement document drafted and ready for execution, all evaluation and award documentation must be sent to TDOT for the second TDOT procurement transaction process review.  TDOT will send a notice to proceed and execute the agreement with the supplier after review and acceptance of the procurement documentation.**

1. **Contract Administration** – The final phase of procurement includes executing the agreement with the supplier, supplier performance to deliver the goods or services as described in the agreement, the recipient’s oversight of progress, and receipt of and payment for goods or services.
	1. **Specifications** – Specifications are listed as an element again in the final phase of the procurement as a check to confirm that the goods or services as described and agreed to in the solicitation are what the supplier finally delivers.
	2. **Agreement** – The agreement document, which includes the specifications and required clauses, must now be executed by the supplier and recipient.
	3. **Monitor Progress** – The recipient must monitor the progress of the performance of the contract.
	4. **Delivery** – Performance of the contract should result in the on time delivery of the good or service as described in the agreement specifications.
	5. **Payment** – Upon delivery, payment for the good or service can be made according to the payment provisions in the agreement.
	6. **Reimbursement** – After payment for delivery of the good or service, the expense of the item, eligible for reimbursement, in the program as planned, can be requested with the supporting documentation.

TDOT’s review of the procurement transaction process at both points noted in the outline is documented through our completion of review checklists that can be found on the TDOT Multimodal website.

Worksheets are also provided on the TDOT website that may be used by recipients to document the required procurement recordkeeping elements.  These worksheets are optional.  However, if the worksheets are not used and are not supplied with procurement transaction process documentation, recipient documentation that addresses the procurement elements must be included for review to demonstrate compliance.

Please note that we are committed to continuous improvement of the procurement process review and are working to make the procurement review process as compliant, efficient, and as timely as it can be.