

PROCUREMENT AND THIRD PARTY CONTRACTING

Procurement and third party contracting activities are primarily the responsibility of the subrecipient. Subrecipients should follow established local procedures and applicable state or federal standards in accordance with the North Carolina Consolidated Procurement Code (as amended). The procurement and contract standards set forth under N.C. G. S. 143 Article 8 and FTA Circular 4220.1F shall apply to the procurement of all goods and services the subrecipient will purchase under the project contract.

Subrecipients shall conduct procurements in a manner that prohibits the use of statutorily or administratively imposed in-State or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. This does not preempt State licensing laws. However, geographic location may be a selection criterion in procurements for architectural and engineering (A&E) services provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

Procurements shall include all applicable federal requirements identified in the certifications and assurances from the Federal Transit Administration. These assurances should be reviewed and incorporated into subrecipient proposals and awards, and purchases.

Statutory and Regulatory Requirements

- Grantees are responsible for using applicable Federal mandated clauses and certifications for each procurement funded with Federal funds that is over the amount of \$3,000.
- These requirements are contained in the FTA Master Agreement, issued annually in October and can be found at <http://www.fta.dot.gov/documents/21-Master.pdf>
- **FTA 4220.1F**
 - Sets forth requirements that all grantees and subgrantees of States (including nonprofits and regional transit authorities) must adhere to in the solicitation, award, and administration of third party contracts
 - Makes requirements more consistent with applicable laws and regulations, particularly the Common Grant Rules
- **2 CFR Part 1201**
 - “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards”, dated December 19, 2014 supersedes the Grant Common Rule, 49 CFR parts 18 and 19.
 - The “Grant Common Rule” established uniform administrative requirements for Federal grants and agreements
 - Sets forth procedures for procurement of supplies and other expendable property, equipment, real property, and other services with Federal funds

- Additional guidance can be found in [FTA Best Practices Procurement](#).
- **North Carolina General Statutes 143 Article 8**
 - The General Statutes contain the main competitive bidding requirements for the purchase of apparatus, supplies, materials, or equipment and construction and repair work
 - Statutes apply to the “expenditure of public money” for these types of purchases
 - Statutes apply to all local government entities
 - Statutes apply to nonprofit grantees for projects funded with State funds or State matching funds
 - Changes in the threshold amounts were effective January 1, 2002 and the construction formal bid threshold was increased effective July 1, 2007.
- **North Carolina General Statutes 64 Article 2**
 - This Statute, E-Verify required for Public Contracting
 - HB 786 imposed E-Verify requirements on contractors that enter into certain contracts with local governments. All City and County contracts regardless of type and value. This includes all contracts not competitively bid, including service contracts. All formal purchases and construction/repair contracts.
 - E-Verify requirement applies to subcontractors as well as contractors.

Procurement Policy

- All NCDOT grantees must incorporate the required procurement standards set forth in FTA Circular 4220.1F for all third party contracts
- State-funded procurements must also incorporate these standards, with the exception of Federal mandated clauses and certifications
- Each grant applicant, in the annual certification and assurances, must certify that its procurements and procurement system will comply with all applicable requirements imposed by Federal laws, executive orders, or regulations and the requirements of FTA Circular 4220.1F as amended, and other implementing requirements FTA may issue
- Master Agreement issued annually by FTA lists many but not all FTA and other Federal requirements applicable to FTA grantees (additional guidance can be found in the FTA Best Practices Procurement Manual)
- FTA defers to the States, to maximum extent possible, to establish standards – rather than setting national standards

Procurement Standards

Conformance with State and Local Law

- Grantees and sub-grantees may use their own procurement procedures that reflect applicable State and Local laws and regulations, provided that the procurements conform to applicable Federal law, including the requirements and standards in FTA C 4220.1F
- NCDOT PTD grantees will follow the Federal requirements, unless the State/Local requirements are more restrictive