



Lee-Ogle Transportation System of Lee County

Procurement Policies and Procedures

Table of Contents

Table of Contents

- 1.0 Statement of Purpose.....4
- 1.1 Provider’s Responsibilities4
- 1.2 Length of Contract.....4
- 1.3 Prohibition Against Geographic Preference.....4
- 1.4 Responsive Bidder.....5
- 1.5 Responsible Bidder.....5
- 1.6 “Buy America”5
- 1.7 Metric System of Measurement.....5
- 1.8 Products that Conserve Natural Resources.....5
- 2.0 Code of Conduct.....5
- 2.1 Personal Conflicts of Interest6
 - 2.1.1 Applicability6
 - 2.1.2 Prohibited Actions – Conflicts of Interest6
 - 2.1.3 Prohibited Actions – Outside Employment with Firms Doing Business with or Seeking Business with LOTS6
 - 2.1.4 Solicitation/Acceptance of Gifts, Gratuities, and Favors6
 - 2.1.5 Penalties for Violations of Personal Ethical Standards in Procurement.....7
- 3.0 Methods of Procurement7
 - 3.1 Micro Purchases7
 - 3.2 Small Purchases8
 - 3.3 Competitive Procurement Methods.....8
 - 3.3.1 Sealed Bids.....8
 - 3.3.1.2 Bid Preparation9
 - 3.3.1.3 Bid Contents9
 - 3.3.1.4 Bid Advertisement10
 - 3.3.1.5 Competition.....10
 - 3.3.1.6 Pre-Bid Conference10
 - 3.3.1.7 Bid Amendments11
 - 3.3.1.8 Bid Opening and Tabulation11
 - 3.3.1.9 Bid Withdrawal11
 - 3.3.1.10 Contract Award12
 - 3.3.1.11 Single Bid.....12
 - 3.3.1.12 IDOT Concurrence in Bid Documents13
 - 3.3.1.13 IDOT Concurrence in Bid Award.....13
 - 3.3.2 Competitive Proposals.....13
 - 3.3.2.2 Proposal Preparation14
 - 3.3.2.3 Proposal Contents.....14
 - 3.3.2.4 Proposal Advertisement.....14
 - 3.3.2.5 Competition.....15
 - 3.3.2.6 Pre-Proposal Conference.....15
 - 3.3.2.7 Proposal Changes/Addenda15
 - 3.3.2.8 Proposal Opening.....16
 - 3.3.2.9 Proposal Review and Evaluation.....16
 - 3.3.2.9.2 Evaluation Procedures.....16
 - 3.3.2.9.2.1 Simple Evaluation16
 - 3.3.2.9.2.2 Qualifications Based Evaluation.....17
 - 3.3.2.10 Proposal Negotiation.....18
 - 3.3.2.11 Proposal Withdrawal.....19
 - 3.3.2.12 Notification to Unsuccessful Proposers.....19
- 3.4 Non-Competitive Negotiation or Sole Source Awards.....19
- 3.5 Intergovernmental Procurements.....20
- 3.6 Joint Procurements20

3.7	Excess or Surplus Federal Property	20
3.8	Debarment and Suspension	20
3.8.1	DOT Debarment and Suspension Regulations	21
3.8.2	System for Award Management	21
3.8.3	Lobbying Certification and Disclosure	21
3.8.4	Additional Requirements	21
4.0	E-Commerce.....	23
5.0	Contract Cost and Price Analysis	23
5.1	Cost Analysis	23
5.2	Price Analysis	23
5.3	Price Analysis for Micro and Small Purchases	24
5.4	Cost or Price Analysis for Competitive Procurements	24
5.4.1	Price Analysis Procedures	24
5.4.2	Cost Analysis Procedures	24
5.4.3	Cost Analysis for Sole Source Procurements	25
5.4.4	Use of Federal Cost Principles	25
6.0	Contract Actions.....	26
6.1.2	Bilateral Contract	26
6.2	Standard Provisions in All Contracts.....	26
6.3	Contract Options	26
6.4	Payment Provisions	27
6.5	Contract Award Announcements	27
6.6	Prohibited Actions.....	27
6.7	Leasing.....	27
7.0	Written History of Procurement	28
8.0	Disputes and Protests.....	28
8.2	Protests	28
8.2.1	Protests Prior to Award	29
8.2.2	Protests After Bid Opening/Receipt of Proposals	29
9.0	Bonding Requirements	30
10.0	Liquidated Damages.....	30
11.00	Access to Records	30
12.0	References	30

1.0 Statement of Purpose

This policy implements the procurement requirements of the Illinois Department of Transportation under the section 5311 program. The policy governs the actions of the of Lee Ogle Transportation System (LOTS) of Lee County and actions that the LOTS may take on behalf of Lee County government related to the Section 5311 grant in the administration of its third-party contracting actions.

A contract is defined as a mutually binding legal relationship obligating the seller to furnish the supplies or services (including construction) and LOTS or Lee County government for actions that LOTS may take on behalf of Lee County government related to the Section 5311 grant to pay for them. Contracts include bilateral instruments, awards and notices of awards, job orders or task assignment letters issued under basic ordering agreements, letter contracts, orders, such as purchase orders, under which the contract becomes effective by written acceptance or performance and bilateral contract modifications.

The parties agree a contract must possess the legal capacity to enter into the contract, and they must assent to the terms of the contract. The terms of the agreement must not require the performance of an illegal act by the parties. Contracts may be either oral or written in form.

Federal Transit Administration procedures are defined in FTA Circular 4220.1F entitled "Third Party Contracting Guidelines." IDOT procedures are outlined, in part, in the grant agreement and in the Section 5310/5311 Grant Management Manual, Section 3/6.

1.1 Provider's Responsibilities

It is the provider's responsibility to assure any contract/purchase for a capital item (including E-Commerce, purchase orders, credit card charges, etc.) is performed by the authorized representative of the Section 5311 grantee (Lee County, LOTS as the pass-through operator). Any other party acting on behalf of the grantee (including a provider that is not a grantee) must receive written approval and authorization of the grantee prior to initiating any capital purchase.

1.2 Length of Contract

All purchase agreements or contracts must not exceed five years, including options.

1.3 Prohibition Against Geographic Preference

All procurements shall be conducted in a manner that prohibits the use of statutorily or administratively imposed geographical preference in the evaluation of bids or proposals. However, geographic location may be a selection criterion in procurements for architectural and engineering services provided its application leaves an appropriate number of qualified

firms to compete for the contract.

1.4 Responsive Bidder

A bid which conforms to all material aspects of the requirements of the solicitation at the scheduled time of submission and requires no further discussions with the bidder.

1.5 Responsible Bidder

A responsible bidder is one which possesses the ability, willingness, and integrity to perform successfully under the terms and conditions of the contract. The bidder shall demonstrate affirmatively that it qualifies as “responsible” under the standards of 49 U.S.C. Section 5325 and all proposed subcontractors shall also qualify as “responsible”. Per FTA requirements, the bidder must fulfill the following criteria:

- Integrity and Ethics
- Debarment and Suspension
- Affirmative Action and Disadvantaged Business Enterprise (DBE)
- Public Policy
- Administrative and Technical Capacity
- Licensing and Taxes
- Financial Resources
- Timeliness
- Performance Record

1.6 “Buy America”

“Buy America” requirements shall be followed for all applicable federally funded contracts for rolling stock, steel, iron, or manufactured products with a value greater than \$150,000.

1.7 Metric System of Measurement

LOTS will accept, to the extent practicable and economically feasible, products and services that are dimensioned in the metric system of measurement.

1.8 Products that Conserve Natural Resources

LOTS will give preference, to the extent practicable and economically feasible, for products and services that conserve natural resources, protect the environment and are energy efficient.

2.0 Code of Conduct

It is the policy of LOTS that its employees and members of the governing board observe the highest standards of ethics and that where an actual or seemingly apparent conflict of interest or breach of fiduciary duty or abuse of official position may arise or has arisen in accordance with Section 2.1 and Section 2.2, there will be an investigation and the proper

course of action shall be taken as deemed appropriate.

All invoices/requisitions for purchases or services are to be sent to the grantee in the name of the grantee. All payments for such purchases are to be made by the grantee.

2.1 Personal Conflicts of Interest

2.1.1 Applicability

LOTS prohibits personal conflicts of interests in the conduct of all procurements undertaken by the organization. This policy is applicable to include conflicts arising from the selection of a firm for award when any of the following has a financial or other interest in the firm selected:

1. The employee, officer, agent, or board member;
2. Any member of his/her immediate family;
3. His or her partner; or
4. An organization that employs, or is about to employ, any of the above.

2.1.2 Prohibited Actions – Conflicts of Interest

In the event any of the above-named individuals has:

1. A direct or indirect financial interest in any contract with the LOTS;
2. A fiduciary relationship (a position of trust) with an individual, partnership, firm or corporation seeking to contract with the LOTS or provide materials or labor thereto, regardless of the contract amount; or
3. A special or unique interest where personal loyalty to a particular interest group or individual may have a bearing on a subject of discussion or vote by the Lee County Board;

Then the individual shall be required to: (a) state on the record the nature of his/her conflict of interest; and (b) not communicate either formally or informally with any board or management employee with respect to the awarding of such contract.

2.1.3 Prohibited Actions – Outside Employment with Firms Doing Business with or Seeking Business with LOTS

Employees and other individuals named in Section 2.1.1 may not accept employment opportunities with an individual, partnership, firm or corporation seeking to contract with the LOTS nor be in the employ of a firm currently engaged in seeking contracting opportunities with LOTS.

2.1.4 Solicitation/Acceptance of Gifts, Gratuities, and Favors

No employee or other individual named in Section 2.1.1 shall be permitted to solicit or

accept gifts, gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to subcontracts.

2.1.5 Penalties for Violations of Personal Ethical Standards in Procurement

Failure of employees in disclosing conflicts of interest as described above shall result in disciplinary action in accordance with the written standards of LOTS. These actions may include discipline leading up to and including termination. In the event LOTS determines the ethical breach to be a violation of Federal or state law, LOTS will contact the appropriate authorities for civil or criminal action.

In the event a member of the Board of Directors violates the standards of conduct in this section, the matter will be referred to the Board for disposition. Disciplinary actions may lead to action up to and including removal from the board.

Any contract awarded following disclosure of an ethical violation will be reviewed to determine whether the violation resulted in an unfair competitive advantage for the selected firm. The contracting official shall have the right to terminate such contracts for convenience in the event of such disclosures.

3.0 Methods of Procurement

LOTS will in its procurement planning determine the most appropriate method of procurement for all purchases of goods and services. The agency will follow adopted procedures in all procurement actions. Prior to every procurement, LOTS will determine the most appropriate method of procurement. The following methods are permitted.

The LOTS Executive Director will ensure all procurements are designed to avoid purchase of unnecessary or duplicative items or examining with the primary procurement officer should consolidate or break out items in the good or service to be purchased to obtain a more economical process. When purchasing items available at lease, LOTS will conduct an analysis of purchase costs versus lease costs to ensure the most economical approach.

3.1 Micro Purchases

This method of procurement may be used for all purchases where the agency's price estimate for the goods or services to be procured is under \$10,000. Micro purchases may be made without obtaining competitive quotations so long as the price is fair and reasonable as evidenced by minimal supporting documentation (e.g. catalog or price lists). Micro purchases are exempt from the Buy America Requirements. LOTS will make every effort to equitably distribute such purchases among qualified suppliers in the local area.

Purchases will not be split to avoid the requirements for competitive quotes for purchases above the threshold. LOTS shall maintain written documentation on micro-purchase procurements. This documentation shall consist of:

1. A determination that the price is fair and reasonable; and
2. How this determination was derived.

3.2 Small Purchases

Small purchases are relatively simple and informal purchases involving the acquisition of services, supplies or other property that cost between \$10,000 and \$150,000.

In all small purchases, LOTS shall solicit either oral or written quotes from a minimum of three sources. When the vendor list involves multiple sources for a small purchase, purchases should be equitably distributed among qualified suppliers in the local area.

Oral quotes shall be documented in writing by the appropriate staff on a standard quotation form adopted by LOTS. Quotation forms shall be part of the permanent file documentation for all small purchases. Written quotations may be obtained electronically (e-mail), via facsimile, through the mail, or obtained directly from the vendor. For each quote, either obtained orally or in writing, the following information will be obtained:

1. Name, address, telephone number
2. Description of the offered item(s)
3. Unit price and total price
4. Discount terms
5. Delivery terms
6. Disadvantaged Business Enterprise (DBE) information, if applicable
7. Person who provided the quote
8. Time and date of the quote

3.3 Competitive Procurement Methods

Competitive procurement methods include sealed bids (sometimes referred to as an "Invitation For Bid (IFB)) and competitive proposals (sometimes referred to as a Request For Proposal (RFP)). Sealed bid is the generally preferred method of procurement for equipment and construction, provided the following conditions can be met:

1. A complete, adequate, and realistic specification or purchase description is available;
 2. Two or more responsible bidders are willing and able to compete effectively for the business;
 3. The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price; and no discussion with bidders is needed.
- If these conditions cannot be met, the competitive proposal method will be used.

3.3.1 Sealed Bids

3.3.1.1 General Conditions

When LOTS determines conditions in Section 3.3 can be met, the agency will follow

these procedures in the conduct of the procurement:

1. The IFB will be publicly advertised and bids shall be solicited from an adequate number of known suppliers, providing them sufficient time to prepare bids prior to the date set for opening the bids. Generally, a minimum of thirty (30) days will be provided unless the LOTS Board of Directors determines that less time is required. In no instance shall the period of advertisement be less than 14 days unless an emergent bid process is necessary.
2. The invitation for bids, which will include any specifications and pertinent attachments, shall define the items or services sought in order for the bidder to properly respond.
3. All bids will be publicly opened at the time and place prescribed in the invitation for bids.
4. A firm fixed-price contract award will be made in writing to the lowest responsive and responsible bidder contingent upon review of the vendor's eligibility. When specified in bidding documents, factors such as discounts, transportation costs, and life cycle costs shall be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of.
5. Any or all bids may be rejected if there is a sound documented business reason.
6. Prior to award to the selected bidder, a price analysis should be conducted to verify that the price quoted is fair and reasonable.

In order to preserve the integrity of the competitive bid system, after bids have been opened, award will be made within thirty (30) days to the responsible bidder whose bid conforms to the IFB and whoever will be the most advantageous to LOTS considering only price and price-related factors included in the invitation, unless there is a compelling reason to reject all bids and cancel the invitation.

LOTS will make every effort to anticipate changes in the solicitation prior to the date of bid opening and to notify prospective bidders of any modification or cancellation through a formal written amendment to the solicitation, thereby permitting bidders to change their bids without the exposure of bid prices.

3.3.1.2 Bid Preparation

The bid documents will identify the nature of the procurement, the agency name, and the contact person(s) and contain simple, clear instructions for preparing an offer. The IFB will clearly state the time and manner for submitting the offer and the length of time for which the offer must remain firm (not subject to withdrawal).

3.3.1.3 Bid Contents

The IFB will be based on a clear and accurate description of the technical requirements for the material, product, or service to be procured. This is in keeping with a goal of maximum contractor responsibility and minimum risk to the buying agency. It may be necessary,

however, to use design-type descriptions (as for components, tolerances, etc.) in certain situations, such as the need for standardization. The description will not contain, in competitive procurements, features which unduly restrict full and open competition.

The "brand name or equal" description may be used to define the performance or other necessary procurement requirements. When so used, the specific features of the brand name product that must be met by bidders must be clearly identified. Brand names that are known to meet the "or equal" requirements should be listed.

The specification will include a description of the product and also include reliability and quality assurance requirements.

Criteria for inspecting, testing, and accepting products will be included in the specification.

Preservation, packaging, packing, and marking requirements will be addressed.

3.3.1.4 Bid Advertisement

The Bid Advertisement will be publicized through distribution to prospective bidders, advertising in newspapers (including digital environments) and/or trade journals, and such other means as may be appropriate, in sufficient time to enable bidders to prepare and submit their best bids before the time set for public opening of bids.

3.3.1.5 Competition

The IFB, including specifications and attachments, will permit full and open competition consistent with the requirement for the property or services to be procured. This requirement will represent LOTS' minimum needs and be sufficiently described to promote full and open competition.

3.3.1.6 Pre-Bid Conference

At the discretion of the procurement officer, LOTS may hold an in-person or virtual pre-bid conference as a means of briefing prospective offerors and explaining complicated specifications and requirements. LOTS will permit potential respondents to address ambiguities in the solicitation documents that may require clarification. If such a conference is held, notice of the conference shall be included in the solicitation at the time of issuance.

When such conferences are held, they shall be conducted at least two (2) weeks prior to the scheduled bid opening in order to permit time to prepare formal responses to questions and/or issue any necessary bid addenda.

3.3.1.7 Bid Amendments

LOTS shall reserve the right to amend bid documents. Amendments will be used to correct problems in standard terms and conditions, changes in quantity, the technical specifications, delivery schedules, opening dates, and/or drawings. Amendments will also be used to correct ambiguous provisions or to resolve conflicting provisions in the bid package. In issuing the amendment, LOTS will (1) document the change in writing so there are no misunderstandings; and (2) provide the changes to offerors who were not at the conference.

Bid amendments will contain the following elements:

1. Identify the solicitation number of the original solicitation;
2. Identify the amendment number;
3. Identify the contact person and phone number within your department for further information;
4. Indicate whether or not the time and date specified in the original solicitation is changed as a result of the amendment;
5. Advise offerors of the need to and how they should acknowledge receipt of the amendment;
6. Advise offerors what the changes are; and
7. Have the amendment signed by the appropriate procurement official, most frequently the contracting officer.

Amendments will be sent to every firm that has been furnished the original solicitation or who attended the pre-bid conference.

3.3.1.8 Bid Opening and Tabulation

All bids will be opened publicly at the time and place stated in the IFB. The bid opening is a public event; guests, visitors, and vendors will be permitted to witness the opening. LOTS shall appoint a staff person, other than the contracting officer, to serve as the official supervising and conducting the opening. LOTS shall collect all bids, verifying that agency post office boxes, mail room, and reception areas where express deliveries are received have been checked as close to the time of bid receipts as possible.

At that time, the designated agency official will personally and publicly open the bids, read the bids aloud (if practical) to those persons present, and have the bids recorded. The bids will be recorded on an "Abstract of Bids" form provided by the agency and this document will be available for public inspection and distribution after completion of the reading of bids.

3.3.1.9 Bid Withdrawal

Bids may be modified or withdrawn by written or facsimile notice. The notice must be

received in the place designated in the IFB not later than the exact time set for bid opening. A facsimile modification or withdrawal of a bid received by email should be considered if the message is received by LOTS no later than the time set for bid opening, and confirmed as being received.

Modifications received by facsimile will be sealed in an envelope with the following written thereon: the IFB number, the date, time of receipt and by whom, and his/her signature. Information contained therein should not be disclosed before the time set for bid opening. A bid may be withdrawn, in person, by a bidder or his authorized representative provided:

1. His/her identity is made known;
2. He/she signs a receipt for the bid;
3. The withdrawal is prior to the exact time set for bid opening.

3.3.1.10 Contract Award

Contracts will be awarded to the lowest responsive and responsible bidder, determined on the basis of the evaluation criteria set forth in the IFB. If an offer conforms in all material aspects to the requirements of the solicitation at the scheduled time of submission and does not require further discussions with the offeror, the offer will be determined to be responsive.

3.3.1.11 Single Bid

Single bids are special situations that require additional analysis. Single bid situations arise when LOTS receives only a single offer in response to the solicitation or, after review of multiple bids received, all but one bid is found to be nonresponsive to the specifications. In the event of a single bid arising from either circumstance described above, LOTS will determine whether or not the price bid in the single bid is fair and reasonable. If appropriate, a comparison is made of prior proposed and contracted prices with current proposed prices for the same or similar end item. The application of unit costs (*e.g.*, dollars per pound, per horsepower, or other units) may be used to highlight significant inconsistencies that warrant additional pricing inquiry. The results of such analysis will be compared with competitive published price lists, published market prices of commodities, similar indexes, and discount or rebate arrangements.

LOTS shall also review the bid documents to determine factors leading to receipt of a single bid. Discussions may be held with expected vendors to determine their reasons for not submitting a bid. If there were no restrictions in the bid specifications that deterred or limited competition, and the expected bidders chose not to bid for reasons other than problems with the solicitation, evaluation and award may proceed. If it is determined the specifications contained restrictive provisions that minimized competition, LOTS shall consult with the appropriate personnel of the Illinois Department of Transportation to determine whether or not the public good would be better served by re-bidding the item or whether to award the contract to the single bidder.

If, on the basis of the above analysis, LOTS is able to document the price is fair and reasonable, and if the bid is responsive and the bidder responsible, and no restrictive elements were found in the bid that hindered competition, a recommendation for award will be forwarded to the LOTS Board of Directors.

If, on the basis of the above analysis, LOTS is unable to establish that the price is fair and reasonable, the bid will be rejected and a new solicitation conducted.

3.3.1.12 IDOT Concurrence in Bid Documents

If the estimated value of the bid is in excess of \$10,000, LOTS shall submit the bid package, in its entirety, to IDOT for concurrence prior to advertisement.

3.3.1.13 IDOT Concurrence in Bid Award

IDOT review and concurrence are required before entering into any third-party contract for goods and property costing between \$300 and \$5,000 or for services costing in excess of \$10,000 and where any material change is proposed which would substantially alter the proposed program as detailed in the application or the Approved Project Budget.

In single bid situations where LOTS has determined the bid price is fair and reasonable and the agency intends to enter into a contract with the single bidder, the concurrence of IDOT will be obtained prior to contract execution.

3.3.2 Competitive Proposals

3.3.2.1 General Conditions

When LOTS determines conditions in Section 3.3 cannot be met, competitive proposals will be used. The following requirements will be incorporated into the conduct of the procurement.

1. The Request for Proposal (RFP) will be publicly advertised. All evaluation factors to be used in the review of proposals will be identified, along with their relative importance.
2. Proposals will be solicited from an adequate number of qualified sources.
3. LOTS will have a method in place for conducting technical evaluation of the proposals received and for selected the awardee.
4. LOTS will make an award to the responsible offeror whose proposal is most advantageous to LOTS with price and other identified selection factors considered.

In determining which proposal is most advantageous, LOTS will consider which proposal offers the greatest business value to the agency based upon an analysis of a tradeoff of the technical factors and price/cost to derive the proposal which represents the best value.

3.3.2.2 Proposal Preparation

The bid documents will identify the nature of the procurement, the agency name, and the contact person(s) and contain simple, clear instructions for preparing an offer. The RFP will clearly state the time and manner for submitting the offer and the length of time for which the offer must remain firm (not subject to withdrawal).

3.3.2.3 Proposal Contents

The proposal documents may vary in construction depending upon the nature of the competitively negotiated procurement and whether or not Federal funds are used in the financing of the procurement activity. The following general format will be used by LOTS:

1. RFP Advertisement.
2. A description of the item or statement of work specifications.
3. A description of the requested scope of services, including the requested schedule for completion.
4. Sufficient background information on the need for the work in order to allow potential offerors sufficient information to formulate a proposal.
5. Standard terms and conditions
6. Instructions for construction (*e.g.*, organization, required submissions, etc.) and submission (*e.g.*, date, time, and place) of the proposal response
7. Cost and pricing data requirements.
8. Standard forms and certifications that must be completed by the respondent.
9. An identification of the proposal evaluation factors and the specific weights that will be assigned to each criterion.

Examples of commonly used evaluation factors used are: experience, qualifications of the submitting firm, experience and qualifications of proposed staff to be used, level of effort (hours of professional labor), proposed methodology, quality of the proposal, responsiveness to the requirements of the RFP, price, proposed quality control procedures, technical support, location of contractor's office(s), and other factors uniquely associated with each procurement. Not all factors will be necessary in every procurement and will be used accordingly. LOTS will also determine the relative importance of each evaluation factor, expressed as a percentage of the total score.

3.3.2.4 Proposal Advertisement

The proposal advertisement will be publicized through distribution to prospective proposers, advertising in newspapers and/or trade journals, and such other means as may be appropriate, in sufficient time to enable potential offerors time to prepare and submit their proposals before the specified due date and time.

3.3.2.5 Competition

The RFP will permit full and open competition consistent with the requirement for the services to be procured. This requirement will represent LOTS' minimum needs and be sufficiently described to promote full and open competition.

3.3.2.6 Pre-Proposal Conference

At the discretion of the procurement officer, LOTS may hold an in-person or virtual pre-proposal conference as a means of briefing prospective offerors and explaining agency goals and expectations for the project. If such a conference is held, notice of the conference shall be included in the RFP at the time of issuance.

When such conferences are held, they shall be conducted at least ten (10) days prior to the deadline for the submission of proposals in order to permit time to prepare formal responses to questions and/or issues raised at the conference.

3.3.2.7 Proposal Changes/Addenda

LOTS reserves the right to amend proposal requirements and/or change any requirement in the proposal. Amendments will be communicated to prospective offerors through an addendum to the proposal.

Amendments will be used to communicate clarifications in the scope of work or changes in submittal procedures, clarify standard terms and conditions, amend the proposed period of performance, correct unintended omissions, or change the proposal due date. In issuing the proposal addendum, LOTS will (1) document the change in writing so there are no misunderstandings; and (2) provide the changes to offerors who were not at the conference.

Proposal addenda will contain the following elements:

1. The solicitation number of the original solicitation;
2. The addendum number;
3. An indication as to whether or not the time and date for submission of proposals contained in the original RFP is changed as a result of the amendment;
4. A form that must be signed by the offeror acknowledging receipt of the proposal addendum to be included in the proposal response; and
5. A statement of the changes to the RFP.

Proposal addenda will be sent to every firm that has been furnished the original solicitation or who attended the pre-proposal conference.

3.3.2.8 Proposal Opening

All proposals must be received by LOTS no later than the date and time specified in the proposal documents. Late proposals will not be opened and will be returned to the offeror. Such proposals will be considered “late” proposals and will not be considered by the evaluation committee.

Proposals received will not be opened in public and no information concerning the submittals will be communicated to the public.

3.3.2.9 Proposal Review and Evaluation

3.3.2.9.1 Time Period for Evaluation

The primary procurement officer will distribute copies of the proposal, along with an evaluation form, to each member of the proposal review committee. The timetable for review will be established by the primary procurement officer and may vary depending upon the complexity of the procurement. In all instances, the evaluation committee will complete their review within thirty (30) days after receipt of proposals.

3.3.2.9.2 Evaluation Procedures

The primary procurement officer will determine the most appropriate means of evaluation. In a simple evaluation process, price is included in the list of evaluation factors identified in the Request for Proposals and is considered in the evaluation of the proposal. In a qualifications-based evaluation process, costs will be submitted by the proposers in a separate, sealed envelope and will not be considered by the evaluation committee until the firm or firms most qualified to perform the work is determined.

3.3.2.9.2.1 Simple Evaluation

Depending on the complexity and scale of the procurement, the primary procurement officer, with the concurrence of the Executive Director, may elect to follow simple evaluation procedures. Price is a component of the proposer’s submission and is considered, along with other factors, in the evaluation of proposals.

Each evaluation committee member shall receive a hard copy or electronic evaluation tabulation sheet, listing the specific factors, scores, and/or weights to be used in the evaluation of proposals. Each committee member shall receive a copy of all proposals and sufficient evaluation sheets to conduct the review. Committee members shall review proposals in private, independent from other staff and/or evaluation committee members. Reviewers will not discuss their evaluations with any other committee members or agencies that submitted proposals.

Completed and signed evaluation forms will be submitted to the primary procurement officer. The primary procurement officer will tabulate all reviews, summarizing the individual score for each evaluation factor and the total proposal score judged by each reviewer.

A meeting will be held following individual proposal scoring. All members of the evaluation committee will discuss the scoring, and based on the numerical scores, concur in the ranking of submissions, from first to last.

If, in the opinion of a majority of the members of the evaluation committee, the highest ranked proposal is sufficiently distinguished from other submissions and considered to be the lowest responsive and responsible bidder, no further evaluation may be needed. In this case, the primary procurement officer will prepare a written recommendation for award of the contract to the highest ranked proposer. After the concurrence of the Executive Director, the recommendation will be submitted for approval to the LOTS Board of Directors.

In event of a tie, or in the event the evaluation committee is unable to reach agreement on the highest ranked firm, the evaluation committee may determine that oral interviews with the top ranked firms within the competitive range are necessary in order to make a final decision.

3.3.2.9.2.2 Qualifications Based Evaluation

When the procurement of professional services involves architectural/engineering services as defined in 40 U.S.C. §541 and 49 U.S.C. §5325(d), LOTS will use a qualifications-based proposal evaluation method. This method of procurement will be used for all construction management, feasibility studies, preliminary engineering, design, architectural, engineering, surveying, mapping, and related professional services.

In this method of evaluation, LOTS will follow the procedures outlined below:

1. The RFQ shall specifically state that LOTS will use a qualifications-based evaluation process consistent with the requirements of the Brooks Act.
2. LOTS will solicit proposal responses that require potential respondents to offer only their technical approach and qualifications to undertake the project. Price will be excluded as an evaluation factor.
3. LOTS will evaluate the proposal submissions consistent with Section 3.3.2.9.2.1 of this policy.
4. The evaluation committee will identify the top ranked firm.
5. The Executive Director of LOTS will begin price negotiation with the top ranked firm. If these negotiations are successful, the recommendation to award the contract to the top ranked firm will be submitted for approval by the Lee County Board.

If negotiations with the top ranked firm fail to reach an acceptable price, the Executive Director of LOTS will begin negotiation with the next highest ranked proposer. The process will continue

with successively ranked proposers until such time as a satisfactory price is negotiated.

3.3.2.10 Proposal Negotiation

LOTS may accept one of the initial proposals if it can be clearly demonstrated that acceptance of the most favorable initial proposal without discussion will result in a fair and reasonable price. The RFP will contain a notice that award may be made without discussion of proposals received, and that proposals should be submitted initially on the most favorable terms possible, from a price and technical standpoint.

LOTS may elect to enter into negotiations with offerors whose proposal is found to be in the competitive range. Negotiation is a procedure that permits bargaining and usually affords offerors an opportunity to revise their offers before award of a contract. If negotiation is used, any oral or written discussion/communication between the primary procurement officer and the offeror will be documented in writing. Discussions with offerors may:

1. Involve information essential for determining the acceptability of a proposal; or
2. Provide the offeror an opportunity to revise or modify its proposal.

The purpose of the negotiation is to ensure that the best offer is provided LOTS. All responsible offerors whose proposals are determined to be within the competitive range will be included in discussions and negotiations of proposal awards. Only those offerors whose proposals are determined to be so deficient or so out of line as to preclude meaningful negotiation need be eliminated from the competitive range.

The competitive range can consist of those offerors whose proposals have a reasonable chance of being selected for award (*i.e.*, proposals that are acceptable as submitted or can be made acceptable through modification in the negotiation process). The evaluation committee will be assigned responsibility for determining which proposals are in the competitive range. Cost/price and other technical factors may be used in this determination.

At the conclusion of proposal discussion with offerors found to be in the competitive range, LOTS will determine whether or not the discussion process has resulted in a material change to the scope of work or that all issues have been resolved to the satisfaction of the evaluation of the committee. At this time, LOTS will solicit the offerors' best and final offers. In this process each offeror in the competitive range will be given the opportunity to submit a revised proposal, or section of proposal affected by the change in scope. These revisions will constitute the offeror's best and final offer. The evaluation process will conclude based on this submission.

If, during the initial evaluation process, the evaluation committee finds a proposal contains a minor irregularity, clerical errors, or other minor informality, LOTS may seek a clarification of the proposal. Clarification of a proposal will be done with only that offeror whose proposal contains the error.

At some point during the negotiation process, a decision is made that all outstanding issues have been resolved to the satisfaction of the parties involved. This is the time to formally conclude the discussions by requesting that each offeror remaining in the competitive range submit its best and final offer.

3.3.2.11 Proposal Withdrawal

LOTS will permit proposers to withdraw or modify their proposals up to the date and time stated in the RFP as the deadline for submission of proposals. After this date and time, proposals shall be firm and binding and cannot be withdrawn for a period of sixty (60) days after submission. This fact will be clearly stated in the RFP.

3.3.2.12 Notification to Unsuccessful Proposers

Once a contract is awarded to the selected offeror, LOTS will communicate in writing to all unsuccessful offerors. This communication will occur in writing within seven (7) days after award by the LOTS Board of Directors. The communication may include the name of the successful offeror and the rationale for award to that offeror.

3.4 Non-Competitive Negotiation or Sole Source Awards

Sole source procurements are done by soliciting offers from only a single source or, after solicitation from a number of sources, competition is determined inadequate.

LOTS will only use this method of procurement under the following circumstances:

1. The item to be procured is determined to only be available from a single source.
2. A public emergency exists that dictates the immediate procurement of the good or service within timeframes that cannot be accomplished using a competitive solicitation.
3. LOTS is specifically authorized by a grantor agency to use non-competitive negotiation.
4. After solicitation using competitive means, LOTS determines that there is insufficient competition.
5. The item to be procured is an associated capital maintenance item that is procured directly from the original manufacturer or supplier of the item to be replaced.

In sole source procurement of associated capital maintenance items, LOTS will document its procurements records specifically noting that the manufacturer or supplier is the only source for the item and that the price of the item is no higher than the price paid for the item by similar customers. When conducting sole source procurements, LOTS will conduct a cost analysis of the price quoted by the supplier prior to concluding the procurement.

3.5 Intergovernmental Procurements

Where feasible, LOTS will seek to use state or federal purchasing agreements or other types of intergovernmental procurements strategies in the procurement of goods or services. When such opportunities are found to exist, LOTS will evaluate the following factors prior to purchase to determine that:

1. The contract is still in effect or can be modified by the awarding agency to permit sufficient lead time to make the required deliveries to LOTS.
2. The specifications in the existing contract will meet the needs of LOTS.
3. The terms and conditions of the contract are acceptable to LOTS with respect to warranty provisions, insurance requirements, etc.
4. The requirements needed by LOTS are not beyond the scope of the existing contract, creating a sole-source (noncompetitive) add-on to the contract.
5. The contract was awarded competitively, either through sealed bids or competitive proposals. If the original contract was awarded under a sole source procurement, LOTS will treat the procurement as a sole source and follow the procedures in Section 3.4 of this policy.

3.6 Joint Procurements

LOTS may also elect to participate in joint procurements with other recipients of financial assistance awarded under the Federal Transit Administration in order to achieve efficiencies in procurement actions and to obtain better pricing through the purchase of larger quantities. LOTS will ensure that all Federal requirements, required clauses and certifications are properly followed and included in the resulting joint solicitation and contract documents.

LOTS may also acquire goods or services from other FTA grantees through the assignment of contractual rights to participate in the contract. If using this process (also known as piggybacking), LOTS will conduct a cost and price analysis to ensure that the price is fair and reasonable.

3.7 Excess or Surplus Federal Property

LOTS will examine current documents regarding the availability of excess Federal property in lieu of purchasing new equipment and property whenever such use is feasible and reduces costs.

3.8 Debarment and Suspension

Debarment and suspension regulations and guidance include the following provisions.

3.8.1 DOT Debarment and Suspension Regulations

U.S. Department of Transportation (DOT) regulations, “Nonprocurement Suspension and Debarment,” 2 CFR Part 1200 apply to each third-party contract at any tier of \$25,000 or more, to each third-party contract at any tier for a federally required audit (irrespective of the contract amount), and to each third-party contract at any tier that must be approved by an FTA official irrespective of the contract amount (2 CFR § 1200). LOTS shall apply DOT’s debarment and suspension requirements to itself and each third-party contractor at every tier to the extent required by DOT’s regulations that incorporate the requirements of the Office of Management and Budget (OMB), “Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)” (2 CFR § 180).

3.8.2 System for Award Management

The system for Award Management (SAM) combines federal procurement systems and the Catalog of Federal Domestic Assistance into one new system. SAM includes the functionality from the following systems:

- Central Contractor Registry (CCR)
- Federal Agency Registration (Fedreg)
- Online Representations and Certifications Application
- Excluded Parties List System (EPLS)

At its discretion, LOTS may collect a debarment and suspension certification from the prospective third-party contractor or include a clause in the third-party contract requiring disclosure. Additionally, it shall be the policy of LOTS to verify the prospective third-party vendor is not listed as a debarred contractor on SAM.

3.8.3 Lobbying Certification and Disclosure

If a third-party contract will exceed \$250,000, before awarding the contract, LOTS will obtain a lobbying certification, and if applicable, a lobbying disclosure from a prospective third-party contractor (see DOT regulations, “New Restrictions on Lobbying,” 49 CFR Part 20, modified as necessary by 31 U.S.C. Section 1352).

3.8.4 Additional Requirements

In addition to the requirements outlined above, there are various requirements that may apply to LOTS’ third-party contracts, depending upon the type of procurement and the anticipated dollar value of said contract. It is the responsibility of LOTS to assess each procurement and determine the applicable FTA third-party terms and conditions that should be included in the solicitation and contract documents. FTA Circular 4220.1F, Appendix D, has a matrix stipulating these conditions. These conditions may include:

- Federal Civil Rights Laws and Regulations
 - Federal Equal Employment Opportunity (EEO) Requirements
 - Nondiscrimination on the Basis of Sex
 - Nondiscrimination on the Basis of Age
 - Nondiscrimination in Federal Public Transportation Programs

- Title VI of the Civil Rights Act
- Environmental Justice
- Limited English Proficiency (LEP)
- Nondiscrimination on the Basis of Disability
- Socio-Economic Development Regulations
 - Disadvantaged Business Enterprises (DBE)
 - Small and Minority Firms and Women’s Business Enterprises
 - Sensitive Security Information
 - Seat Belt Use
- Socio-Economic Requirements for the Acquisition of Property and Services
 - Labor Regulations
 - Wage and Hour Requirements
 - Fair Labor Standards
- Environmental Protections
 - Environmental Mitigation
 - National Environmental Policy Act (NEPA)
 - Protections for Parks, Recreation Areas, Wildlife and Waterfowl Refuges, and Historic Sites
 - Clean Air
 - Clean Water
 - Recycled Products
 - Other Federal Environmental Protection Requirements
- Energy Conservation
- Preference for U.S. Property – Buy America
- Shipments of Property – U.S. Flag Requirements
 - Shipments of Ocean Vessel
 - Shipments by Air Carrier
 - Project Travel – Use of U.S. Flag Air Carriers
- Technical Restrictions on the Acquisition of Property and Services
 - Intelligent Transportation Systems (ITS)
 - Metric Measurements
 - Use of \$1 Coins
- Rolling Stock – Special Requirements
 - Accessibility
 - Transit Vehicle Manufacturer Compliance with DBE Requirements
 - Minimum Service Life
 - Spare Ratios
 - Air Pollution and Fuel Economy
 - Pre-Award and Post Delivery Review
 - Bus Testing
 - In-State Dealers
 - Basis for Contract Award
 - Five-Year Limitation
- Public Transportation Services – Special Requirements
 - Protection for Public Transportation Employees
 - Drug and Alcohol Testing
 - Accessibility
 - Charter Service Restrictions
 - School Bus Restrictions

- Construction – Special Requirements
 - Bonding
 - Bid Guarantee
 - Performance Bond
 - Payment Bond
 - Anti-Kickback
 - Construction Safety
 - Labor Neutrality
 - Prevailing Wages

4.0 E-Commerce

LOTS may utilize electronic methods to conduct all or part of any of its procurement actions. The list of e-commerce strategies includes, but is not necessarily limited to:

1. Transmission of purchase documents, including:
 - a. Request for quotes
 - b. Copies of IFBs
 - c. Copies of RFPs
2. Issuance of clarifications or amendments to the specifications.
3. Issuance of pre-bid or pre-proposal conference summaries.

In all instances of electronic means of communication, LOTS will ensure all vendors on the qualifications list, any vendor who requested a copy of the procurement's documents, or any vendor who participated in a pre-bid or pre-proposal conference receives the electronic communication.

Use of e-commerce strategies will not relieve LOTS from any responsibility to ensure full and open competition in its procurement actions.

5.0 Contract Cost and Price Analysis

LOTS will conduct a cost or price analysis of all its procurement in accordance with the following procedures.

5.1 Cost Analysis

A cost analysis entails the review and evaluation of the separate cost elements and the proposed profit of an offeror's cost or pricing data and the judgmental factors applied in estimating the costs. LOTS will conduct a cost analysis to form an opinion on the degree to which the proposed cost, including profit, represents what the performance of the contract should cost, assuming reasonable economy and efficiency.

5.2 Price Analysis

A price analysis involves examining and evaluating a proposed price without evaluating its separate cost and profit elements. Price analysis is based essentially on data that is verifiable independently from the offeror's data.

5.3 Price Analysis for Micro and Small Purchases

For all micro and small purchases, the LOTS Executive Director or Procurement Officer will certify, through the use of pre-formatted standard form, that the price paid for the good or item is fair and reasonable based on a review of catalog prices (paper documents or web documents), market prices determined from written or oral quotes, regulated prices (e.g., utilities, etc.) or other similar means.

5.4 Cost or Price Analysis for Competitive Procurements

LOTS will conduct formal cost or price analyses of all its procurements undertaken through competitive means (Section 3.3 of this policy). The purpose of this analysis will be to ensure the agency does not pay excessive or unreasonably high rates for the goods and services being procured. Identification of excessively low costs or prices will be used to determine whether or not an offeror has made a mistake or has misunderstood the specifications.

5.4.1 Price Analysis Procedures

Prior to undertaking the procurement, LOTS will develop an independent estimate of the proper price level for the supplies or services to be purchased. The estimate can range from a simple budgetary estimate to a complex estimate based on inspection of the product itself and review of such items as drawings, specifications, and prior data (such as cost data from prior procurements). The estimate can then assist in a determination of reasonableness or unreasonableness of price.

In addition to comparison with the price estimate, LOTS will use the following additional factors to evaluate the reasonable of the proposed price:

1. Comparison of proposed prices received in response to the solicitation.
2. Comparison with competitive, published price lists, published market price of commodities, similar indexes, and discount or rebate arrangements.
3. Comparison of prices received with prior procurement actions for the same or similar end items. LOTS may acknowledge prior price comparisons may be affected by:
 - i. Changes in economic conditions between the times of the two procurements;
 - ii. Differences in quantities.

Inclusion of nonrecurring cost in the prices, such as design, capital equipment, production facilities, etc. (to make a fair comparison, nonrecurring costs can be removed from both prices)

5.4.2 Cost Analysis Procedures

LOTS must prepare or obtain a cost analysis verifying the proposed cost data, the projects of the data, and the evaluation of the costs and profits. The goal of the cost analysis is to determine whether the offeror's estimate contains an accurate and reasonable prediction of the cost incurred during performance. The contract price will be figured by adding a rate of profit that is determined to be fair.

LOTS may use the following common cost analysis techniques in conducting this analysis:

1. Verification of cost or pricing data and evaluation of cost elements, examining the following:
 - a. Necessity for and reasonableness of proposed costs, including allowances for contingencies;
 - b. Projection of offeror's cost trends on the basis of current and historical cost or pricing data;
 - c. Technical appraisal of estimated labor, material, tooling, facilities requirements and reasonableness of scrap and spoilage factors; and
 - d. Application of audited or negotiated indirect cost rates, labor rates, etc.
2. Evaluation of the effect of the offeror's current practices on future costs. This ensures that the effects of inefficient or uneconomical past practices are not projected into the future.
3. Comparison of the individual cost elements proposed with the following:
 - a. Actual costs previously incurred by the same offeror;
 - b. Previous cost estimates from the offeror or other offerors for the same or similar items;
 - c. Other cost estimates received in response to a specific request by LOTS;
 - d. Elements of the independent cost estimates by LOTS;
 - e. Verification that the offeror's cost elements are in accordance with Federal cost principles and procedures as found in FAR 31.

To establish a fair and reasonable profit, consideration will be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

5.4.3 Cost Analysis for Sole Source Procurements

The procedures outlined in Section 5.4.2 will be used in any sole source procurement or when LOTS determines there is inadequate price competition after the conduct of a competitive procurement.

5.4.4 Use of Federal Cost Principles

In conducting cost or price analyses, the costs considered must conform to the principles for allowability established under Federal Acquisition Regulations (FAR) as defined in 49 CFR part
PROCUREMENT PROCESS FOR LEE-OGLE TRANSPORTATION SYSTEM

18.22 and 49 CFR part 18.31.

6.0 Contract Actions

6.1 Award Notice

6.1.1 Offer and Acceptance

When LOTS is in full agreement with all of the terms and conditions of the offer, an offer and acceptance form may be used as the awarding document. The offer and acceptance form will be signed and dated by an individual authorized to contractually bind the agency to a contract agreement. Offer and acceptance procedures are generally appropriate for competitive bidding and competitive negotiation procurements where no changes to the offeror's proposal were made.

6.1.2 Bilateral Contract

In cases where there have been changes to the RFP terms or the proposal terms during the course of discussions and negotiations with the offerors, LOTS will develop and issue a written notice of award by letter to the successful offeror and indicate that bilateral contract document will be forthcoming. The bilateral contract would incorporate the final negotiated terms and conditions, including price, specifications, warranty provisions, etc. LOTS and the successful offeror will sign and date the agreement.

6.2 Standard Provisions in All Contracts

LOTS will develop the bilateral contract document. The document will be sufficiently detailed to include all provisions to define a sound and complete agreement. All bilateral contracts developed will contain provisions relative to the resolution of administrative, contractual, or legal remedies where contractors violate or breach the terms and conditions of the contract and what sanctions and/or penalties may be rendered for such breach. Additionally, all contracts executed in excess of \$10,000 shall include termination for cause and for convenience clauses and the basis for settlement of claims in the event of termination. LOTS shall include all appropriate third-party terms and conditions in all contracts.

6.3 Contract Options

LOTS may elect, when in the best interest of the agency, to include options in its procurement contracts. An option permits LOTS the right to purchase additional equipment, supplies, or services called for under the terms and conditions of the contract, or to extend the term of the contract. When options are used, LOTS will follow these procedures:

1. Option quantities and the time period in which to use options will be clearly specified in procurement documents and in the contract.
2. Exercise of an option will be done in accordance with all the terms and conditions of

the initial contract.

3. LOTS has determined the option price is better than prices available in the marketplace at the time the option is being considered.

6.4 Payment Provisions

LOTS will make payments to contractors following completion or delivery of the good or service to be provided. Payment following delivery of goods is subject to the inspection and acceptance of the good prior to issuance of payment. For professional services contracts, LOTS may render progress payments to the contractor based on a payment schedule mutually agreed upon by the LOTS and the professional services firm. Acceptable basis for determining the amount of the progress payment may include:

1. Actual cost incurred during the period.
2. Percentage of satisfactory completion of the technical elements of the scope of work, based on the level of effort required for each work element.

Progress payments will only be made when adequate progress is documented, in the form of completed products or by submission and acceptance of written progress reports demonstrating effort on the project.

6.5 Contract Award Announcements

If LOTS intends to award a contract that has an aggregate value of \$500,000 or more, it is required to comply with the contract award announcement provision noted above. Public announcements may include press releases, announcements in public meetings, Internet postings and publicly released documents.

6.6 Prohibited Actions

LOTS will not use “cost plus percentage of cost” or “percentage of construction costs” as a payment mechanism or mechanism to render payments to contractors. LOTS will not issue advance payments to contractors.

6.7 Leasing

LOTS will conduct an analysis of purchase costs versus lease costs to ensure the most economical approach is pursued. A lease may also be undertaken if the

- 1) item to be procured is needed on an emergency basis,
- 2) there are no capital funds available to purchase the item,
- 3) item will be used for a demonstration project, or
- 4) item is needed while the LOTS is undertaking a formal procurement of the item.

Leasing of capital equipment must:

- 1) Have prior approval of the Illinois Department of Transportation's Division of Public and Intermodal Transportation (DPIT),
- 2) Be only eligible as an operating expense, and
- 3) Meet the following criteria:
 - a. The total cost of the item including all lease payments is greater than \$5,000.
 - b. Ownership of property is not transferred to the LOTS at the end of the lease term as a term of the agreement.
 - c. The lease does not contain a bargain purchase option. A bargain purchase option is the lessee's option to purchase the leased item at the end of the lease is set at a sufficiently low price as to make the purchase almost certain. Typically, this price is far below market value of the leased item as determined at the end of the lease term.
 - d. The lease is for a term that is less than 75% of the estimated useful life of the lease property.

7.0 Written History of Procurement

LOTS will maintain a written history of every procurement action. At a minimum, the following items will be documented in the procurement file:

- 1) Rationale for the method of procurement chosen.
- 2) Selection of the contract type.
- 3) Reasons for the contractor selection/rejection.
- 4) Basis for the contract price.
- 5) Documentation of any other significant activities of the procurement.
- 6) Evaluation of lease versus purchase options.

8.0 Disputes and Protests

8.1 Disputes

LOTS will work with contractors and vendors to resolve disputes arising from its procurement of goods and services. If such disputes cannot be resolved through negotiation between the vendor and LOTS, the LOTS Executive Director may render a decision on the matter. Nothing in this policy mitigates the right of the vendor to seek legal remedy in a court of competent jurisdiction.

LOTS may seek the assistance of the grantor agency in resolving disputes.

8.2 Protests

Protests will only be accepted by LOTS from prospective bidders or bidders whose direct economic interest would be affected by the award of a contract or refusal to award a contract. LOTS will consider all such protests, whether submitted before or after the award of a contract. All protests must be in writing and conform to the following requirements:

1. Be concise and legally arranged.
2. Provide name, address, and telephone numbers of protestor.
3. Identify the solicitation or contract number.
4. Provide a clear and detailed statement of the legal and factual grounds of the protest including copies of all relevant documents.
5. Provide a statement as to what relief is requested.

8.2.1 Protests Prior to Award

Protests before award must be submitted within the time frame specified below. If the written protest is not received by the time specified, the bid or evaluation process shall continue.

Protests addressing the adequacy of the Invitation to Bid or request for proposal, including the pre-award procedure, the Instruction to Bidders, General terms and conditions, specifications and scope of work, must be filed with LOTS not less than fourteen (14) full working days before bid opening or date of receipt for proposals. Thereafter, all issues and appeals are deemed waived by all interested parties.

Upon receipt of the written protest, LOTS will determine if the bid opening or date of receipt for proposals should be postponed. If the bid opening or due date is postponed, an appropriate addendum will be issued regarding a rescheduling of the bid opening. Any protest may be withdrawn at any time before LOTS has issued its decision.

8.2.2 Protests After Bid Opening/Receipt of Proposals

Any party aggrieved by an award of a contract may protest to the LOTS Board of Directors, in writing, within seven (7) days after such aggrieved party knew or should have known of the facts giving rise thereto. Such protest shall include the detailed facts leading up to the protest. The President of the LOTS Board of Directors is authorized to settle and resolve any protest relating to the solicitation or contract award. Protests received later than thirty (30) days after bid opening or the receipt of proposals shall not be considered.

In the absence of a settlement, the President shall make his or her decision known, in writing, within one week of receipt of the protest. Such decision shall respond, in detail, to each substantive issue raised in the protest.

The written decision of the President shall be final, binding, and conclusive on the parties. Protests should be transmitted to:

President of the Board of Directors
Lee-Ogle Transportation System
210 E. Progress Dr.
Dixon, IL 61021

Protests will only be entertained by the Federal Transit Administration if the aggrieved party is alleging that LOTS does not have, or is failing to follow, written protest procedures.

9.0 Bonding Requirements

For all construction of facility projects that are projected to be in excess of \$100,000, LOTS will require:

1. A bid bond or other suitable guarantee from each bidder equivalent to five percent (5%) of the bid price. The "bid guarantee" will consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.
2. A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.
3. A payment bond on the part of the contractor. A payment bond is one executed in connection with a contract to assure payment, as required by law, of all persons supplying labor and material in the execution of the work provided for in the contract. Payment bond amounts required from contractors are as follows:
 - a. 50% of the contract price if the contract price is not more than \$1 million;
 - b. 40% of the contract price if the contract price is more than \$1 million but not more than \$5 million; or
 - c. \$2.5 million if the contract price is more than \$5 million.

10.0 Liquidated Damages

LOTS will assess the impact of each contract and the consequences for failure of a contractor to complete the project if it is determined the agency will suffer damages and the extent or amount of damages would be difficult or impossible to determine. The assessment of damages will be set at a specific rate per day for each day overrun in the contract period of performance. The LOTS Executive Director will determine the level of damages to be assessed per day, based on the scope of the project.

11.00 Access to Records

LOTS will permit access to records by the Comptroller General, or any of their representatives, access to and the right to examine and inspect all records, documents and papers, including contracts, related to any FTA project financed with Federal assistance authorized by 49 U.S.C. Chapter 53.

12.0 References

In addition to this policy, LOTS will consult with the following documents to obtain additional details and procedures, policies, and practices governing procurement actions:

1. FTA Circular 4220.1F, Rev. 4, dated March 18, 2013
2. FTA's Best Practices Procurement Manual
3. ILDOT 5310/5311 Grant Management Manual

Lee County Board Approval

Bob Olson, Chairman
Lee County Board

October 19, 2023

_____ Yes

_____ No

_____ Absent