CITY OF RAPID CITY/
RAPID TRANSIT SYSTEM (RTS)

PROCUREMENT
POLICIES & PROCEDURES

Adopted November 18, 2019
# TABLE OF CONTENTS

## A. INTRODUCTION
- 1. PURPOSE ................................................................. 1
- 2. APPLICATION .......................................................... 1
- 3. DEFINITIONS ............................................................. 1
- 4. FTA CLAUSES ............................................................ 5
- 5. RECORD KEEPING ....................................................... 5
- 6. LAND PURCHASES ...................................................... 6

## B. PROCUREMENT PROCESS
- 1. MICRO PURCHASES ................................................... 6
- 2. SMALL PURCHASES ................................................... 6
- 3. FORMAL PROCUREMENT ............................................ 7
  - a. Request for Proposals ............................................... 7
  - b. Request for Qualifications ......................................... 10
  - c. Invitation for Bids ..................................................... 11
- 4. CONTRACT ADMINISTRATION ...................................... 13

## C. SPECIAL CIRCUMSTANCES
- 1. PURPOSE ................................................................. 14
- 2. OPTIONS ................................................................. 14
- 3. BUY AMERICA .......................................................... 14
- 4. CONSTRUCTION ....................................................... 15
  - Veterans Employment .................................................. 15
- 5. ROLLING STOCK ...................................................... 16
- 6. ARCHITECTURAL AND ENGINEERING ...................... 16
- 7. RESEARCH, DEVELOPMENT, DEMONSTRATION, DEPLOYMENT AND SPECIAL STUDIES .......... 17
- 8. SOLE SOURCE .......................................................... 17
- 9. EMERGENCY ............................................................ 18
- 10. SINGLE BID ............................................................ 18
- 11. PIGGYBACKING ....................................................... 19
- 12. REQUESTS FOR INFORMATION ............................... 19
- 13. LEASING ................................................................. 19
- 14. CHANGE ORDERS ................................................... 19

## D. LEGAL REQUIREMENTS
- 1. CONFLICT OF INTEREST ............................................ 20
- 2. SELF CERTIFICATION ................................................ 20
- 3. NO REGIONAL PREFERENCES .................................... 21
- 4. EQUAL EMPLOYMENT OPPORTUNITIES ...................... 21
- 5. DISADVANTAGED BUSINESS ENTERPRISE ................. 21
6. DETERMINATION OF RESPONSIBILITY ................................................................. 22
7. PASS-THRU CLAUSES TO SUBS ...................................................................... 22

E. PROTEST PROCEDURES .................................................................................... 22
   PROTESTS PRIOR TO AWARD OF CONTRACT .................................................. 23
   PROTESTS TO AWARD OF CONTRACT .............................................................. 23
   APPEALS ............................................................................................................ 24

F. FORMS ............................................................................................................... 24
   INDEPENDENT COST ESTIMATE ...................................................................... 26
   RATIONAL FOR METHOD OF PROCUREMENT/CONTRACT TYPE .................. 27
   SMALL PURCHASE TELEPHONE QUOTE ....................................................... 28
   PUBLIC BID OPENING SUMMARY FORM ...................................................... 29
   RESPONSIBILITY DETERMINATION ............................................................... 30
   RESPONSIVENESS CHECKLIST ........................................................................ 31
   CERTIFICATION OF CONFIDENTIALITY & NO CONFLICT OF INTEREST ....... 32
   CONTRACTOR’S PERFORMANCE EVALUATION REPORT ............................. 354
A. INTRODUCTION

1. PURPOSE
This policy sets forth the components of purchasing procedures to be followed by the City of Rapid City (CITY)/Rapid Transit System (RTS) as applied specifically to the Federal Transportation Administration (FTA) Federal grants program as required.

These policies and procedures were developed to simplify, clarify, and update the procurement process for the CITY/RTS. The rules endeavor to ensure fair and equal treatment of all parties and encourage effective competition and ensure that expenditures are incurred in a prudent manner. It is also designed to assure a procurement system of quality and integrity.

2. APPLICATION
These rules shall be applicable for any purchases involving FTA funds made by CITY/RTS, and include the following terms:

a. When a procurement involves the expenditure of Federal FTA assistance or contract funds, CITY/RTS shall follow any mandatory requirements of applicable Federal law and applicable federal regulations;
b. Nothing in these rules shall prevent the CITY/RTS from complying with the terms and conditions of any grant, gift, bequest, or cooperative agreement providing that competitive procedures as described in these rules shall be followed whenever possible;
c. This policy shall not be applicable to the leasing, rental, acquisition or disposition of real property.
d. “Cost plus a percentage of cost” and “percentage of construction cost” methods of contracting SHALL NOT BE USED.
e. Where appropriate, the following possibilities will be analyzed to determine the most economical and practical procurement: lease vs. purchase alternatives; and products and services that conserve natural resources, protect the environment and are energy efficient.
f. The CITY/RTS shall consider using Federal excess and surplus property in lieu of purchasing new equipment and property if such use is feasible and reduces project costs.
g. The Transit Division Manager (TDM) shall work collaboratively with the City Finance Office in the development and execution of procurements; however, the TDM shall be responsible for ensuring compliance with this policy.

3. DEFINITIONS
a. “AWARD” – the acceptance of a bid or proposal; the presentation of a purchase agreement or contract to a bidder.
b. “BEST INTEREST OF THE CITY/RTS” – a term frequently used in granting a purchasing official the authority to use discretion to take action felt to be the most advantageous and in the “best interest of the CITY/RTS.” The term is normally
used when it has not been possible to anticipate all of the circumstances that may arise so that more specific directions could be delineated either by pre-qualification or in the bid documents.

c. “BID” – an offer to provide goods or services in response to a request by CITY/RTS.

d. “BID BOND” – an insurance agreement in which a third party agrees to be liable to pay a certain amount of money in the event that a specific bidder, if his/her bid is accepted, fails to accept the contract as awarded.

e. “BIDDER’S LIST” – a list maintained by the CITY/RTS setting out the names and addresses of suppliers of various goods and services from who bids, proposals, and quotations can be solicited.

f. “BRAND NAME SPECIFICATIONS” – specification that cites the brand name, model number, or some other designation that identifies a specific product to be offered exclusive of others.

g. “BRAND NAME OR EQUAL SPECIFICATION” – a specification that cites names, model numbers, or other identifications as representing quality or performance called for, when inviting bids or proposals on comparable items or products of any manufacturer.

h. “CITY/RTS” – the City of Rapid City/Rapid Transit System.

i. “CENTRALIZED PURCHASING” – a system of purchasing in which the authority, responsibility, and control of purchasing activities is concentrated in one administrative unit.

j. “CHANGE ORDER” – an order authorized by CITY/RTS authorizing the contractor to make changes, pursuant to contract provisions for such changes, with or without the consent of the contractor.

k. “COST ANALYSIS” – A cost analysis must be performed when the offeror is required to submit the elements (i.e., Labor Hours, Overhead, Materials, etc.) of the estimated cost; e.g., under professional consulting and architectural and engineering services contracts. A cost analysis will be necessary whenever adequate price competition is lacking and for sole source procurements, including contract modifications or change orders, unless price reasonableness can be established on the basis of a catalogue or market price of a commercial product sold in substantial quantities to the general public or on the basis of prices set by law or regulation.

l. “COMPETITIVE BIDDING” – the submission of prices by individuals or firms for a contract, privilege, or right to supply merchandise or services.

m. “CONTRACT” – any type of agreement, regardless of what it may be called, for the procurement or disposal of supplies, equipment, materials, or services.

n. “DISADVANTAGED BUSINESS ENTERPRISE (DBE)” – a small business concern:
   
i. Which is at least 51% owned by one or more socially disadvantaged individuals, or in the case of any publicly owned business, at least 51% of the stock is owned by one or more socially or economically disadvantaged individuals; and

    ii. Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it;

    iii. Whose business is owned by economically disadvantaged women.
Socially and economically disadvantaged individuals include Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Asian-Indian Americans, Subcontinent Asian Americans, women, and other individuals found to be disadvantaged by the Small Business Administration. Such individual or entity must provide adequate documentation showing they are actually certified as a registered DBE with the State of South Dakota or other appropriate approving entity (e.g. another state).

o. “EMERGENCY PURCHASE” – a purchase made without following the normal purchasing procedures in order to obtain goods or services to meet an urgent and unexpected requirement.

p. “EVALUATION OF BID” – the process of examining a bid after opening to determine the bidder's responsibility, responsiveness to requirements, and to ascertain other characteristics of the bid that relate to determination of the successful bidder.

q. “FORMAL BID” – a bid which must be submitted in a sealed envelope and in conformance with a prescribed format, to be awarded at as specified time.

r. “INDEPendant COST ESTIMATE” – (ICE) an independent assessment of what you would expect to pay (price) for goods or services based on a reliable source such as historical payment, industry standard, or market survey. Informal cost estimates from suppliers or manufacturers may be used to develop an ICE. An ICE must be performed for all procurements including change orders.

s. “INVITATION FOR BIDS” – all documents, whether attached or incorporated by reference, utilized for soliciting bids.

t. “INFORMAL BIDS” – an unsealed competitive offer conveyed by letter, telephone, fax, electronic mail, telegram, or other means and under conditions different from those required for formal bidding.

u. “LEGAL NOTICE” – notice of a proposed purchase as required by law, SDCL 5-18A-14. Depending on the legal requirement, notice may be satisfied by posting an announcement of the purchase in a public place, notification of the appropriate bidders from the bidder’s list, formal advertisement in a newspaper of general circulation, or a combination of these methods.

v. “LOWEST RESPONSIBLE AND RESPONSIBLE BIDDER” – originally, the bidder submitting the lowest initial price and capable of performing the proposed contract. Under current purchasing concepts, often construed as generally the same as the “lowest responsive and responsible bidder” or the “most advantageous bid,” price and other factors considered.

w. “MISTAKE IN BID” – a miscalculation in composing a bid resulting in an incorrect price or other term which will affect the bidder’s eligibility to be awarded a contract.

x. “NO BID” – a response to a request for bids by CITY/RTS stating that the respondent does not wish to submit a bid. In addition to serving as the courtesy of a reply, it can operate to prevent removal from the bidder's list for failure to show active interest.

y. “NON-RESPONSIVE BID” – a bid that does not conform to the essential requirements of the Invitation for Bids; non-conforming bid; unresponsive bid.

z. “PERFORMANCE BOND” – a Contract of guaranty executed subsequent to award by a successful bidder to protect buyer or owner from loss due to contractor
inability to complete the contract as agreed.

aa. “PERFORMANCE SPECIFICATION” – a specification describing the performance characteristics sought in a product or service; a purchase description accenting performance over design; a functional rather than a generic or physical specification.

bb. “PRICE ANALYSIS” – annotating a price to be fair and reasonable and the justification as to why. This may include catalog or market prices offered in substantial quantities to the general public, regulated prices, or a comparison with recent prices for similar goods or services.

c. “PROFESSIONAL SERVICES” – those services which are essentially intellectual in character and which include analysis, evaluation, prediction, planning, or recommendation. Professional services involve extended analysis, the exercise of discretion and independent judgment in their performance, and an advanced, specialized type of knowledge, expertise, or training customarily acquired either by a prolonged course of study or equivalent experience in the field. Professional services include, but are not limited to services performed by accountants, auditors, analysts, consultants, lawyers, physicians, planners, artists, engineers, architects. See also SDCL 5-18A-1(19).

d. “PROTEST” – a written statement concerning an unresolved disagreement or controversy arising out of the solicitation or award of a contract.

e. “PRE-QUALIFICATION OF BIDDERS” – the screening of potential suppliers or contractor in which the buyer considers such factors as financial capability, reputation, management, etc., in order to develop a list of prospective bidders qualified to be sent invitations to bid.

ff. “PURCHASE REQUISITION” – that document whereby a contract is entered into for a specific need and may include the description of a request item, delivery schedule, transportation data, criteria evaluation, suggested source of supply, and information supplied for the making of a written determination.

g. “PROPRIETARY INFORMATION” – information or data describing technical processes, mechanisms, or operational factors that a business wishes to keep from general public view in order to maintain competitive advantage in the market.

hh. “PROPOSAL” – an offer made by one party to another as a basis for negotiations for entering into a contract.

ii. “PURCHASE ORDER” – a purchaser’s document which formalized a purchase transaction with a vendor. A purchase order contains statements as to quantity, description, and price. Acceptance of a purchase order by the vendor constitutes a contract.

jj. “QUALIFIED PRODUCTS LIST” – an approved list of supplies, services or construction items described by model or catalog numbers, which prior to competitive solicitation, the CITY/RTS has determined will meet the applicable specification requirements.

kk. “REQUEST FOR PROPOSALS (RFP)” – all documents, whether attached or incorporated by reference, utilized for soliciting competitive proposals; the RFP procedure permits negotiation of proposals and process as distinguished from competitive bidding and an Invitation for Bids.

ll. “RESPONSIBLE BIDDER” – that bidder who has the capability in all respects to perform in full the contract requirements, and the integrity and reliability that will assure good faith performance.
mm. “SEALED BID” – a bid which has been submitted in a sealed envelope, to prevent its contents from being revealed or known before the deadline for the submission of all bids.

nn. “SOLICITATION TIME” – the period of time between the date of the advertisement for bids and the date set for opening of bids.

oo. “SPECIFICATIONS” – any description of the physical, functional, or performance characteristics, or of the nature of a supply, service, or construction item. A specification includes, as appropriate, requirements for inspecting, testing, or preparing a supply, service, or construction item for delivery.

pp. “TRADE SECRET” – any aspect of a business or its operation not made available to competitors.

qq. “VALUE ANALYSIS” – an organized effort to analyze the function(s) of products, systems specifications and standards, practices and procedures, intended to satisfy the required function(s) in the most economical manner.

rr. “WAIVER OF BIDS” – a process authorized by applicable Federal, State, or local law or regulations and approved by the CITY/RTS to procure items without competitive bidding procedures because of unique circumstances related to a particular need or procurement, including emergency provisions.

4. FTA CLAUSES

As a recipient of Federal funds, the CITY/RTS shall include all applicable FTA required clauses in each contract. The clauses shall be reviewed by the TDM to determine which clauses are applicable and will be included in the solicitation documents for vendor/contractor review. The TDM will ensure that all clauses are signed and all certifications verified before any contract is entered into. Any applicable state and/or local requirements will also be included in each solicitation and contract document as necessary. The CITY/RTS will also ensure that, as required by the Common Grant Rules, all necessary provisions will be included when entering into a third party or industry developed contract, and that such contracts are favorable to the CITY/RTS.

Some Federal third-party contract clauses require additional action on the part of CITY/RTS. As stated above, the verification of any additional requirements will be overseen by the TDM and documentation of any action taken will be included in the contract history file. For additional information on the Federal Clauses and their requirements, please refer to Chapter IV of FTA Circular 4220.1F.

5. RECORD KEEPING

As required by the Common Grant Rules, a procurement history shall be kept for each procurement action. This history file shall at least meet the minimum requirements of the FTA which require (See files in the Forms section): 1) the rationale for the method of procurement, 2) reasons for selection of contract type, 3) reasons for contractor selection or rejection, including a written responsibility determination for the successful contractor, and 4) a basis for the contract price as well as the evaluation and justification for the actual contract cost or price. The written records and documentation will vary greatly depending on the size and complexity of each procurement action. The CITY/RTS will maintain these files in a readily accessible location for a minimum of three (3) years after the recipient and subrecipients, if any, have made final payment and all other pending matters are closed. The CITY/RTS
also recognizes the right, as provided by 49 U.S.C. Section 5325(g), for FTA and DOT officials, the Comptroller General, or any of their representatives, to access, 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.

6. LAND PURCHASES
This policy shall not be applicable to the leasing, rental, acquisition or disposition of real property.

B. PROCUREMENT PROCESS

1. MICRO PURCHASES
It is the policy of the CITY/RTS that it considers micro-purchases to be those purchases of $5,000 or less.

(1) When appropriate and permitted by State and local law, the CITY/RTS may acquire property and services valued at $5,000 or less without obtaining competitive quotations. These purchases are exempt from FTA’s Buy America requirements. Davis-Bacon prevailing wage requirements (including FTA Clause), however, will apply to construction contracts exceeding $2,000.

(2) The following procedures apply to micro-purchases:
   a. Competition: These purchases will be made on the open market by informal methods without public notice. Employees who are authorized to make micro-purchases must evaluate the need of the item to be procured, based on their annual department budgets, and then evaluate possible vendors to determine whether or not the vendor would be considered responsible. After that determination is made, the employee will select a vendor and make their purchase.

   b. Documentation: Using their receipt, whether it is a store receipt, mailed invoice, or other statement, they will document and code their purchase using the appropriate stamp. They will also verify that they found the price to be fair and reasonable and document it using a second stamp, initialing how their determination was made. If more information is needed on any procurement, the employee will document it and submit it with the coded and stamped invoice. It is not required to document the rationale for method of procurement used, the selection of contract type, or reasons for contractor selection or rejection when making a micro-purchase.

   c. Prohibited Divisions: Procurement requirements will not be artificially divided so as to constitute a micro-purchase.

For more information on micro-purchases, please refer to FTA Circular 4220.1f, Chapter VI, Section 3-a.

2. SMALL PURCHASES
It is the policy of CITY/RTS that the procurement of supplies and services shall be considered a small purchase up to $25,000, or the purchase of equipment or
construction of public improvements up to **$50,000**. Authorized employees will determine what supplies, equipment, materials, or services are needed and, based on their department budget, decide when and how they will procure it. They will meet with the TDM to ensure that they have all the required forms and documents needed before they begin the solicitation process. At a minimum the forms required will include an Independent Cost Estimate, Rationale for Method of Procurement, and required clauses. They will then gather documented telephone quotations which provide:

a. the name of the company or firm;
b. the person providing the quotation;
c. payment terms (if any) and
d. price(s) of good(s) or service(s) to be provided.

Written quotations may be used in lieu of telephone quotations if it is in the best interest of the CITY/RTS. A minimum of three (3) businesses, if available, handling the particular commodity or service shall be requested to provide telephone or written quotations in order to ensure fair and open competition. A “no bid” shall not meet the requirement of a responsible telephone or written bid. Award shall be made to the business offering the price and terms that will provide the CITY/RTS and the Federal Government with the best value. Any city department may, at their discretion, form a bidder’s list with the names of businesses that may be interested in competing for various types of RTS purchases and contracts. The CITY/RTS shall maximize the opportunity for DBEs to participate in telephone bids. All small purchases must still be determined to be fair and reasonable and include the minimum FTA required procurement documentation, including the responsibility of the vendor and any applicable third-party contract clauses. When determining that the price is fair and reasonable, a cost or price analysis must be prepared and included with the procurement file before awarding the contract.

Procurement requirements will not be divided or reduced so as to avoid the additional procurement requirements applicable to larger acquisitions.

For more information on small purchases and their requirements, please refer to FTA Circular 4220.1f Chapter VI Section 3-b or the Best Practices Procurement Manual.

### 3. FORMAL PROCUREMENT

Formal procurement procedures must be used for any procurement action exceeding the amounts for micro purchases or small purchases. Different formal procurement methods may be used depending on the type of commodity or service to be procured. RTS will determine which method will ensure the best value for the CITY/RTS and the Federal Government before proceeding with any procurement process. Prior to releasing a formal procurement to the public, an Independent Cost Estimate (ICE) must be performed. When determining that the price is fair and reasonable, a cost or price analysis must be prepared and included with the procurement file. It is completed after Bids/Proposals are received and prior to award.

a. **Request for Proposals**

Request for Proposals (RFP) is a method of contracting for goods or
services whereby proposals are solicited from qualified suppliers, following submission of which changes in proposals and prices are allowed, and an offer deemed by the CITY/RTS to be the most advantageous in terms of criteria as designated in the RFP is accepted. Factors to be considered in determining whether RFP is a practicable method of procurement include:

i. The property or services to be acquired are described in a performance or functional specification; or if described in detailed technical specifications, other circumstances such as the need for discussions or the importance of basing a contract award on factors other than price alone are present;

ii. The contract needs to be other than fixed-price type;

iii. If it may be necessary to conduct oral or written discussions with offerors concerning technical and price aspects of their proposals;

iv. If it may be necessary to base award on a comparative evaluation as stated in the RFP of differing price, quality, and contractual factors in order to determine the most advantageous offering to the CITY/RTS; and

v. If the primary consideration(s) in determining award may be factors other than price(s).

The RFP will include, at a minimum, the following:

i. A statement that discussions may be conducted with offerors who submit proposals determined to have a reasonable chance of being selected for award, but that proposals may be accepted without discussion;

ii. A statement of when and how price(s) should be submitted

iii. Instructions and information to bidders concerning the bid submission requirements, including the time and date of closing, the address of the office to which bids are to be delivered, the manner in which proposals should be submitted, and the CITY/RTS representative availability for contact regarding the RFP;

iv. The date, time, and location, if applicable, of any Pre-Proposal Conferences.

v. The project description and/or specifications, evaluation factors, delivery or performance schedule, and inspection and acceptance requirements; and

vi. The contract terms and conditions, including warranty and bonding or security requirements as applicable, including applicable federal clauses.

The TDM will determine what items or services are needed. The TDM will be responsible to formulate a list of specifications or requirements, or Scope of Work, to describe the commodity or service to be procured. The specifications must be clear and accurate but not contain any features that
unduly restrict competition. The CITY/RTS recognizes that the FTA may not finance procurements with specifications that are exclusionary or discriminatory. Furthermore, if the CITY/RTS is unable to write clear and accurate descriptions of the technical requirements of the property or services sought, a “brand name or equal” description may be used to define the performance or other salient characteristics of the item or service sought. Those specific features or characteristics of the named brand which must be met by offerors of “an equal” proposal must be clearly stated and shall be considered for award. If only one source can supply the requirement, the procurement shall be made under Sole Source Procurement provisions. For more information on forming specifications for proposals, please refer to the FTA Best Practices Procurement Manual, Chapter 3.

RFPs will be advertised publicly and made available on the CITY/RTS website and at the RTS office. Proposals will be solicited from an adequate number of qualified sources to ensure fair and open competition. Offerors shall be afforded fair and equal treatment. The CITY/RTS may form a bidder’s list with the names of businesses who may be interested in receiving solicitations from the CITY/RTS. Reasonable efforts will be made to include DBEs in all RFP solicitations.

A Pre-Proposal Conference may be held if deemed necessary. Pre-Proposal Conferences will be held a minimum of 14-calendar days prior to the submission of initial proposals. Attendance to pre-proposal conferences is highly encouraged, but not mandatory. Attendees will sign an attendance roll and provide the CITY/RTS with their email address or other contact information. A question and answer period after the conference will also be designated in the RFP detailing the number of days allowed for all attendees of the conference to submit questions to the TDM or other designated CITY/RTS representative(s). At the end of the question period, answers to all questions will be emailed to all requesters of the RFP to the email addresses provided or will be made available in other manners based on the contract information provided.

The CITY/RTS reserves the right to make Amendments to RFPs and require that the bidders acknowledge receipt of all addendums issued. The amendments will reference what portions of the RFP are amended and shall be distributed within a reasonable time to allow prospective bidders to consider them in preparing their proposals. If the time set for proposal submittal will not permit such preparation, the due date will be increased in the amendment if possible. If acknowledgement of receipt is required, any proposals received without such acknowledgement may be deemed unresponsive. The CITY/RTS will allow any proposals to be withdrawn or modified by an offeror prior to the established due date and time. Minor informalities that are matters of form rather than substance can be waived or corrected without prejudice to other offerors; that is, the effect on price, quantity, quality, delivery, or contractual conditions is negligible.
The offeror will be asked to confirm the proposal before an award is made. Such informalities may be waived by the evaluation committee or allowed to be corrected depending on what is determined to be the best interest of the CITY/RTS.

Evaluation factors will be clearly defined in the RFP and may include numerical rating systems. The evaluation committee will determine which proposals should be accepted based only on valid criteria listed in the RFP. The committee will include key personnel who are familiar with the product or service to be acquired, including those who formed the contract specifications and are familiar with the technical requirements of the contract. Members of the committee may be required to sign confidentiality agreements regarding any aspect of the contract or the disclosure of information pertaining to it.

If deemed necessary, interviews will be held with individual offerors to clarify both the CITY/RTS requirements and the proposals submitted. Any substantial oral clarification of a proposal shall be reduced to writing by the offeror.

Award will be made to the responsible offeror whose proposal is determined to be the most advantageous to the CITY/RTS based on the evaluation factors in the RFP. When determining that the price is fair and reasonable, a cost or price analysis must be prepared and included with the procurement file before awarding the contract. The TDM or his/her designated representative will authorize the contract award and the Public Works Compliance Specialist (PWCS) will then notify the winning offeror, as well as all unsuccessful offerors.

b. Request for Qualifications
The Request for Qualification method of procurement will be used for architectural and engineering or other Brooks Act protected services. These services are directly in support of, directly connected to, directly related to, or lead to construction, alteration, or repair of real property. Such services may include program management by a contractor, project design, construction management, or engineering services. Unless determined in writing by the FTA, the CITY/RTS will not use RFQ or qualification based procurement methods to acquire other types of services if they are not listed above. Please refer to FTA Circular 4220.1F VI for more information on when RFQ are prohibited.

The RFQ will be solicited using the same process as an RFP. However instead of using evaluation criteria listed in the request as factors for award, the offeror’s qualifications are evaluated to determine who will be awarded the contract. Price will not be used as an evaluation factor.

For more information, please see section C.4 of this policy.
c. Invitation for Bids
In some instances, formal sealed bids (or Invitation for Bids) will be the preferred method of procurement. The Common Grant Rules state a preference of sealed bids when acquiring property, construction and other services. Procurements using sealed bids are appropriate if:

   i. A complete, adequate, precise and realistic specification or purchase description is available;
   ii. Two or more responsive bidders are willing and able to compete effectively for the business;
   iii. The procurement generally lends itself to a firm fixed price contract;
   iv. The successful bidder can be selected on the basis of price and those priced-related factors listed in the solicitation (contractor selection may not be determined on the basis of other factors whose costs cannot be determined at time of award);
   v. Discussions with bidders after bids have been submitted are expected to be unnecessary.

The IFB will include, at a minimum:

   i. The project description and/or specifications, delivery or performance schedule, and inspection and acceptance requirements;
   ii. Instructions and information to bidders concerning the bid submission requirements, including the time and date of closing/opening of bids, the address of the office to which bids are to be delivered, the manner in which bids should be submitted, and the CITY/RTS representatives available for contact;
   iii. The contract terms and conditions, including applicable Federal third-party clauses, warranty and bonding or security requirements as applicable.

The specifications, including any pertinent attachments, must describe the property or services sought in sufficient detail that a prospective bidder will be able to submit a proper bid. Any documents incorporated by reference in the IFB will have the location where they may be found specified. The CITY/RTS will publicly advertise the IFB in compliance with SDCL 5-18A-14 and distribute the IFB to multiple sources to ensure bids from an adequate number of known suppliers. A copy of the IFB will be available on the CITY/RTS website as well as the RTS office. Reasonable effort will be made to include qualified DBEs in any IFB solicitations.

A Pre-Bid Conference may be conducted for the purpose of explaining the procurement requirements. Information regarding the conference will be included in the solicitation. The conference will be held long enough after the IFB is issued to allow bidders to become familiar with it, but with adequate time before bid opening to allow consideration of the conference
results in preparing the bid. All attendees will sign an attendance roll and provide the CITY/RTS with emails or other contact information. After the conference, time will be allowed for conference attendees to submit questions to the CITY/RTS. Responses to all questions will be sent to all vendors in attendance and those who requested the IFB. Nothing stated at such conference will change the IFB UNLESS a formal written amendment is issued. Any amendments issued may require that the bidder acknowledge, in writing, the receipt of all amendments issued. The amendment will reference which part of the IFB it amends and will be distributed within a reasonable time to allow bidders to consider them in preparing their bids. If the time set for bid opening will not permit such preparation, such time will be increased in the amendment to the extent possible. If acknowledgement of amendment receipt is required, any bids received without such acknowledgement may be deemed unresponsive.

The CITY/RTS shall permit any bids to be withdrawn or modified by a bidder prior to the established due date and time. If any securities have been submitted, they will be returned to the bidder upon withdrawal of the bid. The solicitation shall also prohibit multiple or alternate bids from a vendor unless such bids are specifically provided for in the IFB. Such prohibited bids will be rejected.

Upon receipt, all bids will be date and time stamped but not opened, except in the case of unidentified bids, which will be opened for identification purposes and then resealed in the presence of witnesses.

All competitive sealed bids shall be opened publicly at the time and date specified in the IFB. Bids received after the bid opening time shall not be opened but shall be rejected as unresponsive and returned to the bidder unopened, even if the bid is postmarked prior to the bid opening time. The CITY/RTS may permit the following exceptions:

i. In the event of public labor unrest (strike, work slowdown, etc.) which may affect mail delivery, the CITY/RTS may develop and issue emergency procedures;

ii. Any other situation which is beyond the control of the CITY/RTS or the vendor shall be ruled on as to the acceptability of the bid by the City Finance Office.

iii. Situations such as flat tires, accidents, or parking problems shall not be cause for acceptance of late bids.

Bids shall be opened by a designee of the City Finance Office and read aloud in the presence of one or more witnesses. The “Public Bid Opening Summary Form” shall be filled out, including a sign-in form for all those attending. All bid openings shall be open to the public and/or interested parties. The name of the bidder, price, discounts, and delivery and product shall be a part of this record. Except for those items identified as proprietary information or trade secrets, all data regarding any particular
bid becomes public information immediately after a decision or award relating to that bid has been made.

All products or services shall be evaluated against the specifications and/or brand names used as reference in the IFB. In addition to price, the following factors may be considered in evaluating whether or not the bid is responsive: delivery date after receipt of order, cash discounts, warranties, future availability, results of product testing, financial terms, space limitations, aesthetics, adaptability to environment, cost of operation, safety and health features relating to regulator codes or requirements, etc. If the IFB requires the submission of bid samples, descriptive literature, technical data, or other material necessary to determine product availability, they will be used only to determine whether a bidder’s offering will meet the CITY/RTS needs as set forth in the IFB. Any bidder’s offering which does not meet acceptability requirements will be rejected as non-responsive.

Following the determination of bid responsiveness and product availability, if required, the bids will be evaluated to determine which offers the lowest cost to the CITY/RTS in accordance with the specifications set forth in the IFB. The contract shall be awarded with reasonable promptness by the City Council to the lowest responsive and responsible bidder whose bid meets the requirements and criteria set forth in the IFB. The TDM or his/her designated representative will advance the contract award to the City Council and the PWCS will then notify the winning bidder, as well as all unsuccessful bidders.

4. CONTRACT ADMINISTRATION

For Micro Purchases and Small Purchases, the contract administration is limited to verifying that goods or services are received and comply with the original intent of the purchase, including the scope of work if outlined. This verification is documented on the invoice via the approval process. If disputes or discrepancies arise that the employee cannot resolve with the vendor, the TDM must be notified. The TDM will attempt to resolve the dispute and protect the interests of the CITY/RTS and the interests of any applicable funding source.

For Formal Purchases, excluding construction, the TDM will serve as the project manager and main point of contact. The project manager shall be responsible to meet with representatives of the contractor, to evaluate invoices, to review progress on the contract, and to verify compliance with terms of the contract. The PWCS shall be responsible to meet regularly with the project manager to verify the status of the project and verify that documentation is being properly submitted for compliance monitoring efforts. The PWCS shall be responsible for verifying that the procurement files contain adequate documentation of the contract administration efforts.

For Construction Contracts, the CITY/RTS ensures procurement oversight of Contractors awarded contracts by doing the following:
● A kickoff meeting is held to outline and review the procurement process, required documentation, applicable federal clauses, and to discuss roles and responsibilities of all involved.

● The CITY/RTS ensures the contractor only purchases goods and services outlined in the agreement based on a review of billing documents provided by the contractor. Additionally, the project manager may make site visits to review contracts, subcontractor invoices, bid documents, or other documents as may be applicable.

● Weekly (or as deemed appropriate for scope of project) update meetings are conducted with the Contractor by the project manager. Other CITY/RTS personnel may also be involved with these meetings as appropriate.

● Site Visits are conducted to ensure compliance with all appropriate Federal and safety requirements as appropriate.

● The PWCS shall follow up to ensure that all applicable paperwork is obtained and filed appropriately.

● Upon completion of a construction contract, the PWCS and the TDM will meet and evaluate the contractor performance using the Contractor Performance Evaluation Report. The contractor should be furnished with the report and given an opportunity to submit comments, rebut statements or provide additional information. This information will be documented and kept in the procurement file for future source selection decisions.

C. SPECIAL CIRCUMSTANCES

1. PURPOSE
   While all procurement actions have minimum requirements from the FTA, including determining the responsibility of the vendor and that the price is fair and reasonable, many procurements will require additional certification. This section discusses those circumstances but is not intended to be all-inclusive. For additional information on any procurement action, refer to FTA Circular 4220.1F.

2. OPTIONS
   The CITY/RTS must evaluate bids or offers for any option quantities or periods contained in a solicitation if it intends to exercise those options after the contract is awarded.

   If an option is exercised, the CITY/RTS must determine that the option is the best value or that when it intends to exercise the option, the option is more advantageous and is still in the best interest of the CITY/RTS. For additional information, refer to FTA Circular 4220.1F Ch. V, 7.a and Ch. VI, 7.b.

3. BUY AMERICA
   Buy America requirements apply to all contracts for rolling stock, steel, iron, or manufactured products with a value greater than $150,000. For these contracts, the bidder must submit certification of compliance or non-compliance with the Buy America requirements with each bid or offer. The appropriate certifications will be provided in the bid documents provided by the CITY/RTS. If the bidder does not submit a signed certification with the bid, submits the wrong certification of
compliance, or certifies both compliance and non-compliance, that bid is non-responsive and cannot be considered. Rolling stock must be assembled in the United States and have a minimum of 70% domestic content. For additional information of Buy America refer to 49 U.S.C 5323(j), 49 CFR 661 or the Best Practices Procurement Manual Chapter 4.

4. CONSTRUCTION
The CITY/RTS will ensure that any construction contract entered into that totals $2,000 or more will comply with all local, state, and Federal requirements and regulations. This may include but is not limited to:

a. Davis Bacon Act (prevailing wages)
b. Copeland Anti-Kickback Act
c. Contract Work Hours and Safety Standards Act
d. Clean Air
e. Clean Water
f. Buy America
g. Bonding
   i. Bid Guarantee
   ii. Performance Bonds
   iii. Payment Bonds
   iv. Acceptable Sureties
   v. Reduced Bonding
   vi. Excessive Bonding
h. Seismic Safety
i. Recycled Projects
j. ADA Access
k. Value Engineering
l. Equal Employment Opportunities
m. Labor Neutrality

When necessary, the CITY/RTS will also procure the services of a construction management firm to oversee construction activities (see Architectural and Engineering for more information). Price will be used as one of the factors in selecting construction contractors.

Veterans Employment. As provided by 49 U.S.C. § 5325(k), CITY/RTS assures that its subrecipients:

(a) Will give a hiring preference to veterans (as defined in 5 U.S.C. § 2108), who have the skills and abilities required to perform construction work required under a third party contract in connection with a capital project supported with funds made available or appropriated for 49 U.S.C. chapter 53, to the extent practicable, and

(b) Will not require an employer to give a preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or a former employee.

For additional information on any construction procurements, please refer to FTA

5. ROLLING STOCK
To ensure the best value for the CITY/RTS and the Federal Government when purchasing rolling stock, solicitations shall be obtained following sealed bid procedures. Purchases of rolling stock will satisfy all special requirements and include the required documents, clauses and audits. This includes, but is not limited to:

a. Compliance with ADA Accessibility Specifications (49 CFR 37-38, 36 CFR 1192)
b. Transit Vehicle Manufacturer DBE compliance certification (49 CFR 26.49)
c. Vehicle Minimum Service Life requirements (See FTA Circular 4220.1F IV-18)
d. Federal Air Pollution and Fuel Economy Regulations (FTA Circular 422.1F IV-19)
e. Pre-Award Audit (49 CFR Part 663 and 49 U.S.C Section 5323(m))
   i. Buy America
   ii. Purchaser’s Requirements
f. Post-Delivery Audit (49 CFR Part 663 and 49 U.S.C Section 5323(m))
   i. Buy America
   ii. Purchaser’s Requirements
   iii. Federal Motor Vehicle Safety Standard certification
g. Bus Testing results (49 CFR Part 665)
h. Five-Year contract limitation (FTA Circular 4220.1F IV-19)
i. A copy of any post-delivery inspections performed by RTS
j. Spare Ratios (FTA Circular 5010.1)

The CITY/RTS recognizes that when exercising the option to purchase additional buses on a contract, the Pre-Award and Post-Delivery audits, as well as bus testing results, must be re-certified for the new vehicles. The CITY/RTS will conduct both the Pre-Award and Post-Delivery audits to ensure that the certification by the manufacturer is accurate.

For more information on Rolling Stock purchases, refer to FTA Circular 4220.1F, the Best Practices Procurement Manual, or 49 CFR sections as listed above.

6. ARCHITECTURAL AND ENGINEERING
For projects relating to or leading to construction, the CITY/RTS will use Brooks Act qualifications-based procurement procedures when contracting for A&E services and services as described in 49 U.S.C Section 5325(b), which include program management, architectural engineering, construction management, feasibility studies, preliminary engineering, design, architectural, engineering, surveying, mapping, or related services.

Competitive procurement procedures, or a Request For Qualifications, shall be used for qualifications-based procurements. Under this method, price may not be considered as an evaluation factor. Negotiations are conducted with only the most qualified offeror. If negotiations with the most qualified offeror fail, negotiations will
begin with the next most qualified offeror.

The CITY/RTS will take into consideration the relation to construction when determining if Request for Qualifications will be used, which includes:
   a. Purpose of services
   b. Requirements in the context of a construction project
      i. End products used in construction
      ii. Services related to design of construction projects
      iii. Actual construction
   c. Type of contractor not determinative

For any additional information on Brooks Act qualification based procurements, please refer to FTA Circular 4220.1F, the Best Procurement Practices Manual Chapter 3.4.9, and 40 U.S.C Chapter 11.

7. RESEARCH, DEVELOPMENT, DEMONSTRATION, DEPLOYMENT AND SPECIAL STUDIES
When procuring research-type services, some circumstances can involve Federal requirements such as:
   a. Patent rights
   b. Rights in data
   c. Export control
   d. Protection of human subjects
   e. Protection of animals

For additional information on these requirements and their applicability, please refer to FTA Circular 4220.1F

8. SOLE SOURCE
Sole source purchase requirements are necessary when supplies or services required are available from only one responsible source and no other suppliers or services will satisfy the need. In addition, when the CITY/RTS requires an existing contractor to make a change to its contract that is beyond the scope of that contract, it is considered a sole source award and must be justified. Some circumstances that require sole source procurement include, but are not limited to:
   a. Unique Capability or Ability
      i. Unique or innovative concept
      ii. Patents or restricted data rights
      iii. Substantial duplication costs
      iv. Unacceptable delay
   b. Single bid or proposal
   c. Unusual and compelling urgency
   d. Associated capital maintenance item exception repealed
   e. Authorized by FTA

It is important to emphasize that sole source refers to the supplier, not a product or service. Thus, the ability to meet a delivery date or to provide on-call repairs can
create a sole source that is a single supplier condition. Justification for a sole source purchase depends upon a needed item being available from only a single supplier under the prevailing conditions. If the item may be obtained from more than one source, price competition shall be solicited. Federal program regulations for sole source procurement shall be followed in accordance with the regulations for the specific program. Any sole-source procurement will be documented and validated. When determining that the price is fair and reasonable, a cost or price analysis must be prepared and included with the procurement file. Please refer to FTA Circular 4220.1F Chapter VI for more information.

9. EMERGENCY
An emergency condition is a situation which creates a threat to public health, welfare, or safety such as may arise by reason of floods, epidemics, riots, equipment failures, or other such reasons as may be proclaimed by the Mayor of the City of Rapid City. The existence of such condition creates an immediate and serious need for supplies, equipment, materials, and services that cannot be met through normal procurement methods and the lack of which would threaten the function of city government, the CITY/RTS or city programs.

Emergency procurement shall be limited only to a quantity of those supplies, equipment, materials, or services necessary to meet the emergency. After an emergency condition is proclaimed, the TDM and/or PWCS will oversee all purchases required to end the emergency as relates to RTS. Emergency Procurements will follow all documentation and justification procedures as required under Sole Source Procurements.

10. SINGLE BID
If only one responsive bid or proposal is received in response to the solicitation, an award may be made to the single contractor if the TDM or his/her designated representative find that the price(s) submitted is fair and reasonable, that the specifications are not unduly restrictive, that other prospective bidders/offerors had reasonable time to respond, or there is not adequate time for re-solicitation. When determining that the price is fair and reasonable, a cost or price analysis must be prepared and included with the procurement file. Otherwise, the bid/proposal may be rejected and:

a. new bids/proposals may be solicited;
b. the proposed procurement may be canceled; or
c. if the TDM determines that the price of the one bid or proposal is not fair and reasonable and that re-solicitation would likely be futile, the procurement may be made under the provision of Emergency Procurement.

In the case of an RFP having only one submittal, in addition to finding the price to be fair and reasonable, the TDM must document any other reasons that would justify accepting the single proposal versus soliciting a new proposal.

Under any circumstances, the decision to solicit new bids/proposals, cancel a bid or make an Emergency Procurement will be adequately documented in the corresponding procurement file.
11. PIGGYBACKING
Utilizing any existing open-end contract for commodities and services of the federal government, agencies of other states, other public bodies or South Dakota state agencies, to which RTS was not an original party, are discouraged. The CITY/RTS has determined that, in most cases, entering into such a contract is not in the best interest of the CITY/RTS or the Federal government. However, if such a contract is entered into, the CITY/RTS must verify all necessary clauses and certifications are included in the contract; this includes Federal clauses, assign ability clause, and a copy of the actual contract which will be in the contract file. The TDM will verify that the original contract price remains fair and reasonable, and will obtain all applicable documents to verify compliance with federal regulations.

12. REQUESTS FOR INFORMATION
At times, the TDM may find it necessary to solicit Requests for Information from multiple vendors to obtain a better analysis of the market before soliciting Requests for Proposals. In the case of an RFI, it will clearly state that all information submitted is NOT a proposal and that it will be used as a base for the cost or price analysis of the procurement. The TDM will document why it was deemed necessary to solicit RFIs.

13. LEASING
A lease is a contract under which title to the equipment will not pass to the lessee. A lease with an option to purchase, however, allows title to pass if the purchase option is exercised. It has, or has the effect, of a conditional sale agreement. Leases and purchase options should never be used to circumvent the requirements for competition. The soundest and safest approach is that any leases of equipment be subject to the requirements for competition that apply to outright purchases.

All lease agreements shall be reviewed by the City Public Works Director (CPWD) or his/her designee, City Attorney’s office and approved by the Rapid City Common Council. The CITY/RTS may elect to seek additional proposals from third party leasing companies. Lease agreements signed by unauthorized parties may be voided and may result in personal liability.

14. CHANGE ORDERS
The CITY/RTS recognizes that from time to time the need may arise to make modifications, or change orders to a contract. All prospective change orders must have cost justifications supporting each change. The TDM or his/her designee will negotiate the need and cost of the change orders with the vendor. When determining that the price is fair and reasonable, a cost or price analysis must be prepared prior to approval and included with the procurement file. All change orders will be reviewed by the TDM, PWCS and the CPWD and approved by the Rapid City Common Council before any are issued. To be approved, the change order must be within the scope of the original project, allocable, and reasonable for the completion of the project. In the event that the change will be a cardinal change to the contract, the work must be publically solicited as a separate contract and cannot be undertaken as a change to the current contract.
D. LEGAL REQUIREMENTS

1. CONFLICT OF INTEREST

It is of the utmost importance to the CITY/RTS that all employees, officers, board members, or agents of the CITY/RTS maintain a strictly professional relationship with all recipients of Federal or CITY/RTS funds. Therefore, no employee, officer, board member, or agent of the CITY/RTS shall participate in the selection, award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when any of the following has a financial or other interest in the firm selected for award:

   a. the employee, officer, board member or agent;
   b. any member of his/her immediate family;
   c. his or her partner; or
   d. an organization that employs, or is about to employ any of the above.

No officers, employees, or agents of the CITY/RTS will solicit or accept gifts, gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to sub-agreements unless the financial interest is not substantial (less than $100). However, the receipt of gifts of unsolicited items that are of nominal intrinsic value is acceptable.

Any employee, officer, agent, board member of the CITY/RTS who violates such standards of conduct may be subject to penalties, sanctions and discipline up to the extent permitted by State or local law or regulations. In the case of such a violation, the Mayor of the City of Rapid City will make the final decision regarding the appropriate disciplinary action, except as otherwise provided in City ordinance. Any contractors, subrecipients or their agents may also be subject to said penalties, sanctions and discipline.

2. SELF CERTIFICATION

It is the policy of the CITY/RTS, as required by FTA Circular 4220.1 F, to annually self-certify that its procurement procedures comply with the Federal requirements for any FTA assisted third party contracts the CITY/RTS undertakes and administers.

The CITY/RTS also verifies, as required by the Common Grant Rules, that its contracting capabilities are more than adequate to undertake procurements in an effective and efficient manner that is in compliance with Federal, State and local requirements. This includes maintaining a contract administration system that ensures the CITY/RTS and its third party contractors comply with the terms, conditions and specifications of the contracts or purchase orders and applicable Federal, State and local requirements. If the CITY/RTS is ever in a situation where its contract administration system is found to be lacking, it agrees to acquire the necessary services from sources outside of its organization, as expected by the FTA. The CITY/RTS would then take the appropriate steps to prevent or mitigate organizational conflicts of interest that would result in conflicting roles that might bias a contractor’s judgment or result in an unfair competitive advantage.
3. NO REGIONAL PREFERENCES
Specifying in-State or local geographical preferences, or evaluating bids or proposals in light of in-State of local geographic preferences, even if those preferences are imposed by State or local laws or regulations is prohibited. 49 U.S.C. Section 5325(i) prohibits FTA recipients from limiting, in particular, bus purchases to in-State dealers. Some exceptions expressly mandated or encouraged by Federal law include:

a. Architectural and Engineering Services
b. Licensing
c. Major Disaster or Emergency Relief

It is the policy of the CITY/RTS to not base the award of any contract on regional preferences of any kind, other than the exceptions listed above. In the case of such exceptions, the reasoning will be documented. For more information, refer to FTA Circular 4220.1F.

4. EQUAL EMPLOYMENT OPPORTUNITIES
It is the policy of the CITY/RTS that applicable third-party contractors (excludes micro-purchases) will comply with Federal Regulations regarding Equal Employment Opportunities. These include:

a. Federal EEO Requirements
   i. Nondiscrimination in Federal Public Transportation Programs
   ii. Prohibition Against Employment Discrimination
b. Nondiscrimination on the Basis of Sex
c. Nondiscrimination on the Basis of Age
d. Federal Protections for Individuals with Disabilities

Please refer to FTA Circular 4220.1F for more information on Federal EEO requirements.

5. DISADVANTAGED BUSINESS ENTERPRISE
No provision is made in these rules for preference or set asides for minority or women owned businesses. However, it is the policy of the CITY/RTS to make a special effort to solicit and encourage Disadvantaged Business Enterprise (DBE) participation for the CITY/RTS purchases or contracts. The TDM shall be responsible for monitoring the CITY/RTS progress toward achieving the DBE goal.

When economically feasible the total requirements of a procurement action will be divided into smaller tasks or quantities to permit maximum participation by DBEs. Where the requirement permits, delivery schedules will be established that encourage participation by DBEs. Specifications may include the provision for progress payments to encourage responses from DBEs. Change orders for all FTA-funded contracts will be evaluated to enforce DBE participation when appropriate.

Prime contractors will be required to take affirmative steps to ensure that DBE requirements are fulfilled by their employees and subcontractors.

The CITY/RTS will work in cooperation with the State to ensure that the CITY/RTS
has a list of all certified DBEs which exist in the State of South Dakota and will rely on the State of Dakota’s process for certifying DBEs.

6. DETERMINATION OF RESPONSIBILITY
All procurements above the micro-purchase threshold must have documentation verifying the responsibility of the vendor and its ability, willingness, and integrity to perform successfully under the terms and conditions of the contract. This can include, but is not limited to: verifying record of integrity and business ethics; ensuring the vendor has not been barred nor suspended from Federal programs (verify by SAM.gov) under DOT regulations; and verifying compliance with affirmative action and DBE requirements, public policy compliance, proper licensing and taxing, financial and technical resources, production capability, and timeliness to comply with the required schedules, based on all existing commitments; and checking their current and past performance record. The Responsibility Determination form in the “Forms” section can be used to facilitate this research.

If the contractor fails to supply the requested information, the CITY/RTS shall base the determination of responsibility upon any available information or may find the prospective contractor non-responsible. Documentation of any findings regarding the responsibility, and the determination of responsibility, will be included in all procurement history files.

The prospective contractor or vendor may demonstrate the availability of necessary financing, equipment facilities, expertise, and personally submitting upon request:

   a. evidence that such contractor or vendor possesses such necessary items;
   b. acceptable plans to subcontract for such necessary items; and
   c. a documented commitment from or explicit arrangement with, a satisfactory source to provide the necessary items.

The CITY/RTS claims the right to request any financial documents relevant to the procurement or contract entered into with any contractor or vendor. Furthermore, the CITY/RTS affirms that all previous contracts are public knowledge and therefore available for review. The CITY/RTS will also have the authority to declare as unresponsible bidders who default on quotations or awarded contracts, and to disqualify such vendors from receiving any business from the CITY/RTS for a stated period of time. See FTA C 4220.1F, Ch. IV, Paragraph 2.a.(1) for further guidance.

7. PASS-THRU CLAUSES TO SUBS
It is the policy of the CITY/RTS that all contractors who enter into an agreement or contract with the CITY/RTS are required to ensure that any subcontractors hired to fulfill the contract requirements will perform to the same standard as the contractor has agreed to. It is also the Contractors responsibility to ensure that any subcontractors are compliant with all policies, clauses, and requirements of the contract entered into.

E. PROTEST PROCEDURES
Any concerns regarding the awarding of a contract or acceptance of a bid will first be addressed by the concerned party to the TDM or designee. If a resolution cannot be established, an appeal
can be made to the CPWD. Protests will be accepted only from Bidders/Proposers whose
direct economic interest has been adversely affected by those alleged actions/omissions of the
CITY/RTS that form the basis of the protest. Protests will be determined in accordance with
the laws of the State of South Dakota. All protests shall be in writing and shall be submitted to
the CITY/RTS as directed in these protest procedures. Protests that are not delivered to the
appropriate persons or not delivered within the appropriate time limits (all as set forth in these
procedures) shall be null and void and will not be considered by the CITY/RTS. A protest shall
be deemed to be delivered pursuant to these procedures when actually received by the
designated CITY/RTS recipient by hand delivery, by recognized overnight courier service or
by certified or registered mail. All protests shall include:

1. The name and address of the individual or organization filing the appeal.
2. A detailed statement as to the nature and basis of the protest including, without
limitation, the factual and legal basis for the protest.
3. A reference to the specific section of the policy in dispute and the context for the reason
of the protest is required.

PROTESTS PRIOR TO AWARD OF CONTRACT
All protests made prior to the opening of bids or proposals, including protests based upon
alleged restrictive specifications or alleged improprieties in any type of solicitation, shall be
delivered to the CPWD or designee not less than seven (7) calendar days prior to the date of
the bid/proposal opening (as designated by the IFB or RFP) as follows:

City of Rapid City
300 Sixth Street
Rapid City, SD 57701
Attn: City Public Works Director, Time Sensitive Protest Materials

The CPWD, or designee, will promptly make a determination in writing regarding the validity
of the protest and whether or not the bid/proposal process should be delayed beyond the
scheduled date for bid/proposal opening. If the CPWD determines that the scheduled date for
bid/proposal opening should be delayed, all respondents to the solicitation who have furnished
their name and address to the CITY/RTS shall be notified (through an addendum to the
IFB/RFP) of the delay and the reason for the delay. If the protest, or any portion thereof, is
determined by the CPWD to have merit, the CPWD will take all necessary action to address
each alleged restrictive specification, alleged impropriety or other meritorious objection in a
manner consistent with applicable law and CITY/RTS policy and will provide notice of actions
taken to all respondents to the solicitation who have furnished their name and address to the
CITY/RTS. In such cases, the CITY/RTS shall not proceed with the bid/proposal process until
it has remedied such issues to the satisfaction of the CPWD.

PROTESTS TO AWARD OF CONTRACT
All protests made to the award of the Contract pursuant to an IFB/RFP shall be delivered to
the CPWD not less than five (5) calendar days after the protestor received notice of the award.
All protests made to the award of Contract shall be delivered as follows:

City of Rapid City
300 Sixth Street
Rapid City, SD 57701
Attn: City Public Works Director, Time Sensitive Protest Materials

If the protest has been timely filed, the CPWD, or an agent designated by the CPWD, will promptly make a determination in writing regarding the validity of the protest and whether the CITY’S/RTS decision regarding the award should be reconsidered. The CITY/RTS shall provide notice of the protest to all Bidders/Proposers who submitted a proposal pursuant to the IFB/RFP. The CPWD, or his/her designee, will respond to the protestor in writing and address each material issue raised in the protest within 15 business days. If the protest, or any portion thereof, is determined by the CPWD to have merit, the CPWD will take all necessary action to address the protested issues in a manner consistent with applicable law and the City/RTS policy including, without limitation: (1) canceling the procurement; (2) canceling the procurement and reissuing a new procurement; (3) rescinding the award and requesting “best and final offers” from all Bidders/Proposers; (4) determining that the objections, although meritorious, were immaterial to the decision to award; or (5) taking such other actions as may be appropriate under the circumstances. Once the CPWD becomes aware of a protest to the award, the CITY/RTS will not take any further action to execute a Contract pursuant to the IFB/RFP until seven calendar days after the award is upheld by the CPWD (or the appeal committee, if the CPWD’s determination is appealed as set forth in the following section), unless the CPWD shall make a written determination that proceeding with the bid/proposal process is necessary to protect a substantial interest of the CITY/RTS. The FTA will be notified and kept up to date on the status of all protests.

APPEALS
In the event that a protestor receives an unfavorable decision from the CPWD to its protest of Contract award, the protestor shall have the right to appeal the CPWD’s decision by submitting a written appeal to the City Attorney’s Office, addressed as follows:

City Attorney’s Office
City of Rapid City
300 Sixth Street
Rapid City, SD 57701

Any appeal must be delivered within fifteen (15) business days of the date of the CPWD’s decision. If the appeal is upheld by the City Attorney’s Office then, the protestor may continue its protest only by filing an action in the Circuit Court of the State of South Dakota. In accordance with FTA policy, a protestor may not appeal to the FTA unless the protestor claims that the CITY/RTS has failed to follow these protest procedures. Any appeal to the FTA alleging that the CITY/RTS has failed to follow these procedures must be filed with the FTA no later than five (5) federal government working days after the decision is rendered in accordance with FTA C 4220.1F.

F. FORMS

Independent Cost Estimate

Rational for Method of Procurement and Contract Type
Small Purchase Telephone Quote

Public Bid Opening Summary Form

Responsibility Determination

Responsiveness Checklist

Certification of Confidentiality & No Conflict of Interest Form

Contractor’s Performance Evaluation Report
INDEPENDENT COST ESTIMATE
This form must be signed by all parties before continuing your procurement!

Project Name: [Enter Project Name]

☐ Specification/Scope of Work attached

Source: [Enter source of estimate]

☐ Documentation of source included (print screen shot, copies, etc.)

Estimate: [Enter estimate]

Rational: [Enter Rational]

____________________________________________________________________________
[Enter Name of ICE author]                Date
[Enter Title]

____________________________________________________________________________
[Enter Name of Supervisor]                Date
[Enter Title]

____________________________________________________________________________
Megan Gould                        Date
Transit Division Manager
City of Rapid City Rapid Transit System

RATIONAL FOR METHOD OF PROCUREMENT/CONTRACT TYPE

Description of what will be procured: ____________________________
Date of analysis: __________________________
Prepared by: __________________________

Method of Procurement:

<table>
<thead>
<tr>
<th>Method</th>
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<tbody>
<tr>
<td>Small bid procurement (use telephone quote form)</td>
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<tr>
<td>Request for proposals (RFP)</td>
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<tr>
<td>Invitation to bid (IFB)</td>
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<tr>
<td>Other (specify)</td>
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If using an RFP or IFB, how will the bid be advertised?

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<tr>
<th>Method</th>
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<tr>
<td>Formal advertising in newspapers</td>
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<tr>
<td>Formal advertising in industry magazines</td>
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<tr>
<td>Individual contact with providers’</td>
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<tr>
<td>Other (specify)</td>
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If using individual contact, specify how the list of contacts was obtained:

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<tr>
<th>Contact Method</th>
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Contract type to be used:

<table>
<thead>
<tr>
<th>Contract Type</th>
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<tbody>
<tr>
<td>Fixed price</td>
<td></td>
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<tr>
<td>Time and materials</td>
<td></td>
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<tr>
<td>Labor hours</td>
<td></td>
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<tr>
<td>Other (specify)</td>
<td></td>
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</tbody>
</table>

Explanation area for any of above:

<table>
<thead>
<tr>
<th>Explanation Area</th>
<th></th>
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</tbody>
</table>
SMALL PURCHASE TELEPHONE QUOTE

Conducted by: ____________________________________________

Goods/Service Required: ___________________________________

Business Name: _____________________________ Date Contacted: _______

Business Address: ____________________________________________

Years in Business: ______ Telephone: _______________ FAX: _______________

Is business registered with the state of South Dakota as a Disadvantaged Business Enterprise? Yes ( ) No ( )

Annual Gross receipts of Business: Less than $500,000 ( ) $500,000 - $1,000,000 ( ) $1,000,000 - $5,000,000 ( ) $5,000,000 - $10,000,000 ( ) Over $10,000,000 ( )

Contact Person: _____________________________

Price Quoted: _____________________________ (If provided, include copy of written quotation)

Business Name: _____________________________ Date Contacted: _______

Business Address: ____________________________________________

Years in Business: ______ Telephone: _______________ FAX: _______________

Is business registered with the state of South Dakota as a Disadvantaged Business Enterprise? Yes ( ) No ( )

Annual Gross receipts of Business: Less than $500,000 ( ) $500,000 - $1,000,000 ( ) $1,000,000 - $5,000,000 ( ) $5,000,000 - $10,000,000 ( ) Over $10,000,000 ( )

Contact Person: _____________________________

Price Quoted: _____________________________ (If provided, include copy of written quotation)

Business Name: _____________________________ Date Contacted: _______

Business Address: ____________________________________________

Years in Business: ______ Telephone: _______________ FAX: _______________

Is business registered with the state of South Dakota as a Disadvantaged Business Enterprise? Yes ( ) No ( )

Annual Gross receipts of Business: Less than $500,000 ( ) $500,000 - $1,000,000 ( ) $1,000,000 - $5,000,000 ( ) $5,000,000 - $10,000,000 ( ) Over $10,000,000 ( )

Contact Person: _____________________________

Price Quoted: _____________________________ (If provided, include copy of written quotation)

Business Chosen/Justification: ______________________________________________________________________________

_______________________________________________________________________________________________________________________________________

Approval of Transit Division Manager: _____________________________ Date: ________
City of Rapid City Transit System
PUBLIC BID OPENING SUMMARY FORM

IFB:

______________________________

General Description of Procurement:

______________________________

Bid Opening Date:

______________________________

Location of Opening:

______________________________

Bid Opening Attendees:

______________________________

______________________________

______________________________

______________________________

Name of Bidder | Date/Time Bid Received | Bid Amount
---|---|---

<table>
<thead>
<tr>
<th>Name of Bidder</th>
<th>Date/Time Bid Received</th>
<th>Bid Amount</th>
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</thead>
<tbody>
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</table>
RESPONSIBILITY DETERMINATION

Bid/RFP Project:

Contractor:

Date:

For each of the areas described below, check that the appropriate research has been accomplished and provide a short description of the research and the results.

<table>
<thead>
<tr>
<th>Criteria</th>
<th>Acceptable</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Appropriate financial, equipment, facility, &amp; personnel</td>
<td>□ Yes □ No</td>
<td></td>
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<tr>
<td>2. Ability to meet the delivery schedule</td>
<td>□ Yes □ No</td>
<td></td>
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<tr>
<td>3. Satisfactory period of performance</td>
<td>□ Yes □ No</td>
<td></td>
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<tr>
<td>4. Satisfactory record of integrity, not on declined or suspended listings</td>
<td>□ Yes □ No</td>
<td></td>
</tr>
<tr>
<td>5. Receipt of all necessary data from contractor</td>
<td>□ Yes □ No</td>
<td></td>
</tr>
</tbody>
</table>

This vendor has been deemed responsible and does not appear on the declined or suspended list as shown in the attached (SAM.gov). By signing below, I attest the awarded vendor meets the requirements of the Scope of Work.

_________________________________________   _________________
Signature         Date
Rapid Transit System

RESPONSIVENESS CHECKLIST

Solicitation: __________________________

Opening Date: ______________

Name of Bidder: _________________

Solicitation Requirements: (Add/subtract requirements as needed)

<table>
<thead>
<tr>
<th>Requirements</th>
<th>Yes</th>
<th>No</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bid received on time, in sealed envelope</td>
<td></td>
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<tr>
<td>FTA Clauses signed</td>
<td></td>
<td></td>
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<tr>
<td>Lobbying certification signed &amp; attached</td>
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<tr>
<td>DBE documentation included &amp; complete</td>
<td></td>
<td></td>
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<tr>
<td>Insurance documentation included</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Buy America certification signed</td>
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<td></td>
<td></td>
</tr>
</tbody>
</table>

*Buy America & Bid Bonds are required at bid opening. Other items can still be turned in later if originally forgotten.
City of Rapid City/Rapid Transit System
RFP EVALUATION COMMITTEE
CERTIFICATION OF CONFIDENTIALITY & NO CONFLICT OF INTEREST

Please read this document in its entirety, complete as directed, initial each page, sign where indicated and give the original document to the Issuing Officer for the RFP. The Issuing Officer will provide you with a copy of the completed document.

RFP Description _________________________
Evaluator Name _________________________

To protect the integrity of the public procurement process, it is essential that proposals be evaluated in an unbiased manner and without conflict of interest, and that the contents of proposals remain confidential throughout the evaluation process. You have been selected as an evaluator/subject matter expert not only because of your managerial/technical expertise, but also because the Procurement Officer and your supervisor are not aware of any bias, business or family relationships, or any other conflicts that could affect, or which could be perceived to affect, your fair, honest and impartial participation in the evaluation of proposals. As an evaluator/subject matter expert you are expected to: 1) discharge your duties impartially so as to assure fair, competitive access to Commonwealth procurement by responsible contractors, and 2) conduct yourself in a manner which fosters public confidence in the integrity of the Commonwealth procurement process.

Part I - No Foreseeable Conflict of Interest or Bias

I certify that I, and to the best of my knowledge, members of my immediate family, as defined in the Public Official and Employee Ethics Act, 65 Pa. C. S.A §1102:

1. Are not current or former employees of any of the firms in the industry that I foresee would submit a proposal.
2. Are not directors, officers, owners, partners, agents, or representatives of any of the firms in the industry that I foresee would submit a proposal.
3. Do not hold any stock or any financial interest in any of the firms in the industry that I foresee would submit a proposal.

I certify that I will not during the RFP process:

1. Solicit or accept, directly or indirectly, any promise of future employment or business opportunity from, or engage, directly or indirectly, in any discussion of future employment or business opportunity with, any director, officer, owner, partner, employee, representative, agent or consultant of an offeror that submits a proposal, or their proposed subcontractors.
2. Ask for, demand, exact, solicit, seek, accept, receive, or agree to receive, directly or indirectly, any money, gratuity, or other thing of value from any director, officer, owner, partner, employee, representative, agent, or consultant of an offeror that submits a proposal, or their proposed subcontractors for this project. I will advise my immediate family that the acceptance of any such gratuity may be imputed to me as a violation, and must therefore be avoided by them.
I understand that my obligations under this certification are of a continuing nature. I will immediately seek the advice of the Procurement Officer and report the circumstances to my supervisor at any time during the RFP process:

1. I receive a contact from an offeror that submits a proposal, or their proposed subcontractors, concerning employment or other business opportunity.

2. I receive an offer of a gift from an offeror that submits a proposal, or their proposed subcontractors.

3. I encounter circumstances where my participation might result in a real, apparent, or potential conflict.

Part II - Confidentiality

1. I certify that I will not divulge nor make known, in any manner whatsoever, to any person, other than a member of the RFP evaluation committee or other individual who has a confidentiality statement for the same procurement, or to an investigatory or law enforcement authority, after consultation with the Procurement Officer, any information (which has not already been made available to the public or all interested offerors) pertaining to any and all aspects of the RFP including but not limited to the contents of offerors’ proposals, the scoring method, points allotted, evaluator scores, costs, or any other confidential information regarding the RFP process.

2. I understand that unauthorized sharing of information may give an offeror an unfair advantage over another offeror and thereby render the process invalid.

3. I understand that if I divulge such information I may be subject to disciplinary action, including termination of my employment with the Commonwealth.

Part III - Exceptions

Any exceptions to the certifications that I have made in completing this certification are listed below. If additional space is needed, attach additional pages and initial each page of the addition.

Check here □ if there are no exceptions to the certifications.

Part IV - Signature and Certification

I have read and understand the certifications and understanding set out in this document. I further understand that by signing this document, I make the certifications and confirm the understandings herein subject to the provisions and penalties of 18 Pa.C.S. Section 4904 (unsworn falsification to authorities).

Signature (Must be an original ink signature) ______________________________________________________________________ Date
**CONTRACTOR’S PERFORMANCE EVALUATION REPORT**

Today’s Date: ___________________________  Evaluation Period: From _____________ to ________________

Contractor: ___________________________________________________________________________

Project Name: _________________________________________________________________________

Date of Program’s Last Site Visit: ______________________

Brief Description of Work: ___________________________________________________________________________

<table>
<thead>
<tr>
<th>Performance Category</th>
<th>Ratings</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Exceeds</td>
<td>Satisfactory</td>
</tr>
<tr>
<td></td>
<td>Expectations</td>
<td>Performance Score = 3</td>
</tr>
<tr>
<td>Quality &amp; Accuracy of the Work</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Timeliness of the Work</td>
<td></td>
<td></td>
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<tr>
<td>Financial &amp; Progress Reports</td>
<td></td>
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<tr>
<td>Communication</td>
<td></td>
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<tr>
<td>Cost Control</td>
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<tr>
<td>Other (describe)*</td>
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</tbody>
</table>

Evaluator’s Name: ___________________________  Signature: ___________________________

Division: ___________________________  Section: ___________________________

*Requires an attachment describing category and rating description which corresponds.  
*Note: Please see specific definitions for each performance category and an explanation for each rating on following page.
<table>
<thead>
<tr>
<th>PERFORMANCE CATEGORY</th>
<th>EXCEEDS EXPECTATIONS (Score = 3)</th>
<th>SATISFACTORY PERFORMANCE (Score = 2)</th>
<th>MARGINAL PERFORMANCE (Score = 1)</th>
<th>UNSATISFACTORY PERFORMANCE (Score = 0)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Quality and Accuracy</td>
<td>Quality, sufficiency, and accuracy of contract-required work, including work or tasks performed by subcontractors</td>
<td>Work product always, with rare exceptions, of excellent quality. No revisions required.</td>
<td>Work product of satisfactory quality with only typical errors and omissions, which were corrected upon request.</td>
<td>Work product is acceptable, although many errors and/or omissions had to be corrected prior to product being acceptable.</td>
</tr>
<tr>
<td>2. Timeliness</td>
<td>Timeliness with respect to completing contract-required work and/or work-related tasks, including work performed by subcontractors</td>
<td>All tasks and contract deliverables on time or ahead of schedule. Quality of work did not suffer as a result of the time line.</td>
<td>Some intermediate task delays, not expected to cause major deadlines to be missed or to require contract extension. Prior approval granted for any other delays.</td>
<td>Required work product not completed on time, due to factors that should have been under contractor’s control.</td>
</tr>
<tr>
<td>3. Reports</td>
<td>Accuracy, adequacy, and timeliness of contract-required activity/progress reports, notifications, financial reports, invoices, pay requests and other required documents.</td>
<td>All reports accurate and complete, as well as on time. No rewrites or additional information required.</td>
<td>Reports satisfactory with respect to both quality and timeliness. Contractor responded quickly and appropriately to questions or comments raised.</td>
<td>Numerous errors and/or omissions corrected prior to reports being acceptable (or reminders of reports due were required to be sent). Reports not later than 5 working days.</td>
</tr>
<tr>
<td>4. Communication</td>
<td>Contractor’s accessibility, responsiveness, and cooperativeness with respect to any contract-related concerns communicated by the Contract Manager; plus contractor’s demonstrated relationship with subcontractors.</td>
<td>Contractor consistently maintains excellent standing with subcontractors, including timely payments. Works as a team member and is flexible and responsive to changes in circumstances or scope of work.</td>
<td>Contractor is usually flexible and responsive to changes in circumstances or scope of work. Generally maintains good standing with subs, and ensures that they are paid promptly.</td>
<td>Contractor is only intermittently responsive to changes in contract scope or other circumstances. Marginal team player. Failed to make timely payments to subs on one or two occasions.</td>
</tr>
<tr>
<td>5. Cost Control</td>
<td>Contractor’s cost control effectiveness and/or budget management skills</td>
<td>Contract performed at or below allowed cost, with no loss of quality.</td>
<td>Contract performed at less than 5% above allowed cost with adequate quality</td>
<td>Contract performed at 5 - 10% above allowed cost.</td>
</tr>
<tr>
<td>6. Other</td>
<td>DESCRIBE</td>
<td>DESCRIBE</td>
<td>DESCRIBE</td>
<td>DESCRIBE</td>
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</tbody>
</table>