

# EXHIBIT 5a(i)(1)

2006-2007 Procurement System Review



U.S. Department  
of Transportation  
**Federal Transit  
Administration**

REGION V  
Illinois, Indiana,  
Michigan, Minnesota,  
Ohio, Wisconsin

200 West Adams Street  
Suite 320  
Chicago, IL 60606-5253  
312-353-2789  
312-886-0351 (fax)

**March 28, 2007**

Mr. Phillip Pagano  
Executive Director  
Commuter Rail Division of the RTA  
547 W Jackson Blvd.  
Chicago, IL 60661

Re: Procurement System Review  
Final Report

Dear Mr. Pagano:

Thank you for assisting the Federal Transit Administration's (FTA) Procurement System Review (PSR) contractor, Leon Snead & Company, in performing their review of the Commuter Rail Division of the RTA (Metra). The purpose of this review was to assess whether Metra's procurement policies and procedures are in compliance with applicable federal standards and principles. The review covered all FTA funded procurements.

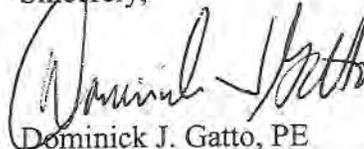
Leon Snead & Company performed interviews of key personnel and reviews of selected contract and purchase order files. The review found Metra deficient in eleven procurement elements. Enclosed is a copy of the final report.

The report incorporates Metra's February 26, 2007 response to the draft report. The report includes reviewer comments. The reviewer comments offer feedback on and recommendations for further enhancement of the proposed corrective action. Within 30 days of the date of this report, Metra must provide a detailed response to the reviewer's comments presented in the report.

We greatly appreciate your continued commitment to making public transportation America's mode of choice. Thank you for your personal contribution, cooperation and assistance during this Procurement System Review since we realize that the review has involved effort, time, and planning.

If you have any questions regarding this report or the PSR process, please contact Lisa Joiner or me at 312-353-2789.

Sincerely,



Dominick J. Gatto, PE

Director, Office of Program Management and Oversight

Enclosure

Cc: Mr. Charles Cummings, Division Director  
Mr. Leon Snead, Leon Snead & Company, P. C.

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**FINAL REPORT**  
**Procurement System Review of**  
**Commuter Rail Division of the Regional**  
**Transportation Authority (METRA)**  
**Chicago, Illinois**

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**Dates of Site Visit: December 11- 15, 2006**

**Prepared by:**  
**Leon Snead & Company, P.C.**  
**416 Hungerford Drive, Suite 400**  
**Rockville, MD 20850**

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## EXECUTIVE SUMMARY

Under contract to the United States Department of Transportation, Federal Transit Administration (FTA), Leon Snead & Company, P.C., performed an on-site procurement system review of the Commuter Rail Division of the Regional Transportation Authority (Metra) Chicago, Illinois during the period from December 11 through December 15, 2006. The review was made to determine whether Metra was deficient or not deficient with respect to each of the requirements of FTA Circular 4220.1E as it relates to procurements for the purpose of developing and administering transit related programs.

The review covered 34 contracts and purchase orders awarded by Metra valued at more than \$21.5 million. The review assessed the grantee's compliance with 56 "elements," or requirements, as defined in FTA Circular 4220.1E. The review assessment is divided into two categories: 1. Not Deficient (definition - in all instances the grantee complied with the requirement), and 2. Deficient (definition - in one or more of the applicable instances the grantee did not comply with the requirement).

We found both strengths and weaknesses in the transit system's procurement function. Our review of the procurement operations disclosed that the grantee had no deficiencies with respect to 39 elements (procurement requirements) of the FTA Circular 4220.1E and it had deficiencies relative to 11 elements. Compliance with six elements in the FTA Circular did not apply to the contract files reviewed (See Appendix I).

Among the strengths found in Metra's procurement operations: was a good system for obtaining price quotations for procurements under \$10,000; a sound solicitation process for Sealed Bids/Invitation for Bids (IFB's); the advertising of requirements; generally well written and complete specifications which are necessary for good contracting and encouraging competition; following the Brooks Act when conducting A&E procurements; and the documentation required to satisfy the Pre-Award and Post-Delivery review requirements.

The principal weaknesses relate to Metra's need to: implement procurement policies covered by the requirements in FTA Circular 4220.1E. In addition, Metra needs to comply with the FTA requirements pertaining to: the documentation supporting independent cost estimates; RFP evaluations; RFP price and other factors; the notification and certification to FTA of OEM sole source procurements; documentation of cost or price analysis; written record of procurement history; evaluation of options; and required Federal clauses.

Practices that could be followed by Metra as described in the FTA Best Practices Procurement Manual are included in this report. This report also includes advisory comments to correct elements with "deficiencies" and to assist Metra in its procurement practices.

We believe that when Metra implements the corrective actions recommended in this report, its procurement system will be strengthened and will be in compliance with FTA Circular 4220.1E.

## I. PROCUREMENT SYSTEM REVIEW BACKGROUND

### Background

The objectives of the Procurement System Review (PSR) are to encourage and facilitate improved grantee procurement operations, promote the use of best practices, and assess Metra's compliance with all Federal requirements. Specifically, the PSR ensures improved and greater compliance with the requirements of Federal Transit Administration (FTA) Circular 4220.1E and the Pre-Award and Post-Delivery Rule. The PSR is designed to be a customer-oriented review that encourages working relationships between FTA and Metra.

This procurement system review of Metra was performed in accordance with FTA procedures and included a risk assessment phase and contract review phase. The risk assessment phase included discussions with FTA regional office personnel, grantee document review, and systemwide requirements review. The contract review phase included a sample selection and review of contract files. Specific documents reviewed are referenced in this report and are available in Metra's files.

### Required Elements

The procurement system review looks at both systemwide elements and individual procurement elements. Systemwide procurement elements are FTA requirements that apply to the procurement system as a whole. Individual procurement elements are requirements evaluated on an individual contract-by-contract basis.

### Classification of Findings

The reviewer records deficiencies for each systemwide and individual procurement element. The reviewer determines deficiencies for systemwide elements based on the results of the Systemwide Requirements Review Check List. The reviewer determines deficiencies for each individual procurement element based upon all the contract files reviewed.

Two levels of findings are used:

- Not Deficient. A finding of "not deficient" indicates that Metra complied with the basic requirements of the element. This is defined as, "The review of the selected procurement files found that in all instances, the grantee complied with the requirement."
- Deficient. A finding of "deficient" indicates that Metra did not always comply with the requirements of the element. This is defined as, "The review of the selected procurement files found that in one or more of the applicable instances, the grantee did not comply with the requirement."

We discussed our findings and recommendations with the following individuals at an exit conference held on December 15, 2006.

- Paul A. Kisielius - Department Head, Materials Management, Metra
- Bruce Darin - Director of Materials Management, Metra
- Charles Cummins - Section Chief, Metra
- Melody L. Hopson - General Engineer, FTA
- Lisa Joiner. - Program Specialists, FTA

## II. DESCRIPTION OF THE GRANTEE

In 1974, The Regional Transportation Authority was established to oversee the local transportation operations in the Chicago metropolitan area of Cook, DuPage, Kane, Lake, McHenry and Will counties located in Northeast Illinois. Pursuant to the Regional Transportation Authority (RTA) Act, the Northeast Illinois Regional Commuter Railroad Corporation, a public corporation acting under the service name of Metra, was established in 1980 to serve as the RTA's operating rail corporation. In 1984, as a result of the restructuring of RTA, the Commuter Rail Division was formed.

A seven-member Commuter Rail Board governs Metra. Three members are appointed by the Suburban Members of the Cook County Board. Two members are appointed by County Board Chairman of Kane, Lake, McHenry and Will Counties, one member appointed by the City of Chicago and one member appointed by the County Board Chairman of DuPage County. The Commuter Rail Board has the responsibility for policy making of RTA rail operations.

Metra is managed by an Executive Director and employs about 4,000 persons who provide commuter rail service in the six county Chicago metropolitan area. Metra's rail system is comprised of 11 rail lines operating more than 1,200 miles of track with more than 1,100 pieces of rolling stock, 16 rail yards and six maintenance facilities. For 2006, Metra provided 82.3 million passenger trips on more than 700 trains each weekday, serving 245 stations. Based on rider ship, Metra is the second largest rail system in the United States. In the terms of the number of rail lines, integration with freight railroads and infrastructure, Metra operates the nation's most complex commuter rail system.

Metra is directly responsible for the operation and management of the commuter services of the Rock Island, Milwaukee Road, Metra Electric, Heritage Corridor, North Central Service, and the South West Service commuter rail lines. Additionally, Purchase of Service Agreements with participating rail carriers Union Pacific Railroad, BNSF Railway Company, and Northern Indiana Commuter Transportation District also provides commuter rail service.

The proposed Metra budget for 2007 provides the following:

Transportation	\$143,051,000
Maintenance of Way	89,738,000
Maintenance of Equipment	93,454,000
Administration	37,157,000
Fuel & Power	79,639,000
Claims, Insurance and Risk Management	68,825,000
Regional Services	12,082,000
Downtown Stations	13,040,000
Security	<u>17,000,000</u>
Total	<u>\$553,986,000</u>

### III. RESULTS OF THE REVIEW

The results of the review are summarized for each systemwide and individual procurement element. For each procurement requirement, the report describes the required element, cites a reference to FTA Circular 4220.1E (and other applicable regulations), discusses the issues and identifies deficiencies, presents best practices/advisory comments, and incorporates the grantee's corrective actions and schedule.

#### A. SYSTEMWIDE PROCUREMENT ELEMENTS

Systemwide procurement elements are requirements that apply to the procurement system as a whole. The systemwide procurement elements are primarily evaluated during the Assessment Phase. During the Assessment Phase, we interviewed Metra's senior management and reviewed its policies and procedures to assess the procurement system environment. We also interviewed procurement staff to assess the effectiveness of the procurement system. The findings in this section are a result of these interviews and additional insights gained during the Contract Review Phase.

#### NOT DEFICIENT

The grantee's system is "not deficient" with respect to the following systemwide elements:

##### Element 1 – Written Standards of Conduct

"Grantees shall maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. No employee, officer, agent, immediate family member, or Board member of the grantee shall participate in the selection, award, or administration of a contract supported by FTA 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:

- (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."

"The grantee's officers, employees, agents, or Board members will neither solicit nor accept gifts, gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to subagreements. Grantees may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. To the extent permitted by state or local law or regulations, such standards of conduct will provide for penalties, sanctions, or other disciplinary action for violation of such standards by the grantee's officers, employees, or agents, or by contractors or their agents." [FTA C4220.1E, ¶ 7.c.]

## **Element 2 – Contract Administration System**

“Grantees shall maintain a contract administration system that ensures that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.” [FTA C4220.1E, ¶ 7.b.]

## **Element 3 – Written Protest Procedures**

“Grantees shall have written protest procedures to handle and resolve disputes relating to their procurement and shall in all instances disclose information regarding the protest to FTA. All protest decisions must be in writing. A protester must exhaust all administrative remedies with the grantee before pursuing a protest with FTA.

Reviews of protest by FTA will be limited to:

- (1) a grantee's failure to have or follow its protest procedures, or its failure to review a complaint or protest; or
- (2) violations of Federal law or regulation.

An appeal to FTA must be received by the cognizant FTA regional or Headquarters Office within five (5) working days of the date the protester learned or should have learned of an adverse decision by the grantee or other basis of appeal to FTA.” [FTA C4220.1E, ¶ 7.1.]

## **Element 4 – Prequalification System**

“Grantees shall ensure that all lists of prequalified persons, firms, or products that are used in acquiring goods and services are current and include enough qualified sources to ensure maximum full and open competition.” [FTA C4220.1E, ¶ 8.d.] (METRA does not have a prequalification system.)

## **Element 5 – Procedures for Ensuring Most Efficient and Economic Purchase**

“Grantee procedures shall provide for a review of proposed procurements to avoid purchases of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives and any other appropriate analysis to determine the most economical approach.” [FTA C4220.1E, ¶ 7.d.]

## **DEFICIENT**

The grantee was “deficient” with respect to the following elements:

## **Element 6 – Procurement Policies and Procedures**

“Grantees and subgrantees shall use their own procurement procedures that reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal law, including the requirements and standards identified in this circular.(emphasis added) If there is no

State law on a particular aspect of procurement, then Federal contract law principles will apply.”  
[FTA C4220.1E, ¶ 7.a]

### Discussion

The grantee’s system is “deficient” with respect to this element. Metra’s Procurement Procedures were reviewed for the mandatory requirements of FTA C4220.1E.

Listed below are FTA Circular requirements, shown by paragraph number, which were not found in the procurement policies and procedures of Metra.

¶ 7.m. "Contract Term Limitation. Grantees shall not enter into any contract for rolling stock or replacement parts with a period of performance exceeding five (5) years inclusive of options. All other types of contracts (supply, service, leases of real property, revenue and construction, etcetera) should be based on sound business judgment. Grantees are expected to be judicious in establishing and extending contract terms no longer than minimally necessary to accomplish the purpose of the contract. Additional factors to be considered include competition, pricing, fairness and public perception. Once a contract has been awarded, an extension of the contract term length that amounts to an out of scope change will require a sole source justification."

¶ 8.a. "Full and Open Competition. All procurement transactions will be conducted in a manner providing full and open competition. Some situations considered to be restrictive of competition include, but are not limited to:

- (1) Unreasonable requirements placed on firms in order for them to qualify to do business;
- (2) Unnecessary experience and excessive bonding requirements;
- (3) Noncompetitive pricing practices between firms or between affiliated companies;"

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

¶ 9.c. "Procurement By Sealed Bids/Invitation For Bid (IFB). Bids are publicly solicited and a firm-fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming to all the material terms and conditions of the invitation for bids, is the lowest in price...

(2) If this procurement method is used, the following requirements apply: ...

- (e) Any or all bids may be rejected if there is a sound documented business reason."(emphasis added)

¶ 9.h. "Procurement By Noncompetitive Proposals (Sole Source). Sole Source procurements are accomplished through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate. A contract change that is not within the scope of the original contract is considered a sole source procurement that must comply with this subparagraph.

(1) Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids, or competitive proposals and at least one of the following circumstances applies:...

(e)The item is an associated capital maintenance item as defined in 49U.S.C.5307(a)(1) that is procured directly from the original manufacturer or supplier of the item to be replaced. The grantee must first certify in writing to FTA:

1. that such manufacturer or supplier is the only source for such item; and
2. that the price of such item is no higher than the price paid for such item by like customers."

¶ 9.i. "Options. "Grantees may include options in contracts. An option is a unilateral right in a contract by which, for a specified time, a grantee may elect to purchase additional equipment, supplies, or services called for by the contract, or may elect to extend the term of the contract. If a grantee chooses to use options, the requirements below apply:...

(2) Exercise of Options.

(a) A grantee must ensure that the exercise of an option is in accordance with the terms and conditions of the option stated in the initial contract awarded.

(b) An option may not be exercised unless the grantee has determined that the option price is better than prices available in the market or that the option is the more advantageous offer at the time the option is exercised."

¶ 10.e. " Cost Plus Percentage of Cost Prohibited. The cost plus a percentage of cost and percentage of construction cost methods of contracting shall not be used."

¶ 13. "Liquidated Damages Provisions. A grantee may use liquidated damages if it may reasonably expect to suffer damages and the extent or amount of such damages would be difficult or impossible to determine. The assessment for damages shall be at a rate specific rate per day for each day of overrun in contract time; and the rate must be specified in the third party contract. Any liquidated damages recovered shall be credited to the project account involved unless the FTA permits otherwise." (emphasis added)

Best Practices/Advisory Comments

Within 30 days of the date of this report the grantee should amend its Procurement Procedures to include the missing FTA Circular requirements.

Corrective Actions and Schedule

The grantee in its response to the draft report provided a draft of its amended Procurement Procedures that include all the missing FTA Circular requirements except for ¶ 9.i. Options.

Reviewer's Comments

FTA may wish to follow-up with the grantee to verify that the amended Procurement Procedures are issued and implemented including ¶ 9.i. Options.

## B. INDIVIDUAL PROCUREMENT ELEMENTS

The individual procurement elements are applicable to the contract files reviewed. We compiled the findings from all contracts reviewed by each individual procurement element. The results of those findings and conclusions are presented below and organized by whether the element was evaluated as "not deficient" or "deficient." Those elements for which the grantee is "not deficient" are shown first and those defined as "deficient" with respect to that element are shown second. The elements classified as "not applicable" to the sample contract files reviewed are shown in Appendix I, Report Summary Table. Within each category the numbered elements appear as they are listed in FTA's Procurement System Review Guide.

**NOT DEFICIENT** (A full description of the elements for which the grantee is not deficient is in Appendix II.)

The grantee is "not deficient" with respect to the following elements:

- Element 8 - *A&E Geographic Preference*
- Element 9 - *Unreasonable Qualification Requirements*
- Element 10 - *Unnecessary Experience and Excessive Bonding*
- Element 11 - *Organizational Conflict of Interest*
- Element 12 - *Arbitrary Action*
- Element 13 - *Brand Name Restrictions*
- Element 14 - *Geographic Preferences*
- Element 15 - *Contract Term Limitation*
- Element 16 - *Written Procurement Selection Procedures*
- Element 18 - *Award to Responsible Contractors*
- Element 19 - *Sound and Complete Agreement*
- Element 20 - *No Splitting [Micro-purchases]*
- Element 21 - *Fair and Reasonable Price Determination*
- Element 23 - *Price Quotations [Small Purchases]*
- Element 24 - *Complete Specifications*
- Element 25 - *Adequate Competition - Two or More Competitors*
- Element 26 - *Firm Fixed Price [Sealed Bid]*
- Element 27 - *Selection on Price [Sealed Bid]*
- Element 28 - *Discussions Unnecessary [Sealed Bid]*
- Element 29 - *Advertised/Publicized*
- Element 30 - *Adequate Solicitation*
- Element 31 - *Sufficient Bid Time [Sealed Bid]*
- Element 32 - *Bid Opening [Sealed Bid]*
- Element 33 - *Responsiveness*
- Element 44 - *Out of Scope Changes*
- Element 45 - *Advance Payments*
- Element 46 - *Progress Payments*
- Element 48 - *Cost Plus Percentage of Cost*
- Element 49 - *Liquidated Damages*
- Element 51 - *Qualifications Exclude Price [A&E]*

*Element 52 - Serial Price Negotiations [A&E]*  
*Element 53 - Bid Security [Construction over \$100,000]*  
*Element 54 - Performance security [Const. over \$100,000]*  
*Element 55 - Payment security [const. \$100,000]*

## **DEFICIENT**

The grantee is "deficient" with respect to the following elements:

### ***Element 7 - Independent Cost Estimate***

"Grantees must perform a cost or price analysis in connection with every procurement action... as a starting point, grantees must make independent estimates before receiving bids or proposals." [FTA C 4220.1E, ¶ 10.]

#### Discussion

The grantee is "deficient" with respect to this element. We reviewed 24 procurement files involving request for proposals, invitation for bids, sole source procurements, and small purchases and found eight files lacked supporting documentation indicating an adequate independent cost estimate had been performed by the grantee before the transit authority received bids or proposals. Our review found the grantee does use a formal procurement requisition form to initiate the procurement process. This form is generated by the requiring or user organizations. The independent cost estimate must be received before receipt of proposals and supported with detailed information as to its development and/or source. Six of the deficient procurement files contained a single amount which appeared as budgeted figures with no backup details or no identified source. Another deficient file indicated the estimate was based on an earlier procurement for like items. The last deficient file contained an estimate received from the sole source offeror. It should be noted the reviewers did find some very detailed independent cost estimates, especially in the area of construction.

#### Best Practices/Advisory Comments

Within 30 days after the date of this report, the grantee should develop procedures and implement management controls to ensure that one of the first steps to be taken in connection with every procurement action is an independent cost or price estimate. This independent estimate should be completed before receiving bids or proposals and should be maintained in the official contract file. The Best Practices Procurement Manual Section 2.3.2 states "A final purpose of the independent cost estimate is for price analysis. Either a cost or price analysis is required for every contract and every change order so that the essential objective of a reasonable price is assured. The adequacy of the price or cost analysis is a critical responsibility of the contracting official. In many contract awards the bids alone may be adequate to assure a reasonable price. However, in all negotiated procurements, most contract changes, and sealed bids where price competition was not sufficient, further analysis is required. An independent cost estimate prepared before receipt of offers is invaluable in these circumstances. The estimate alone may, if prepared with sufficient detail and reliability in the contracting official's judgment, be sufficient to determine whether the price is

reasonable. It will at least supplement other pricing data in making the determination of reasonableness. Because cost analysis can be time consuming, expensive, and raise disputes, the availability of an independent pre-bid estimate which enables price analysis and obviates cost analysis is worth material pre-bid effort.”

### Corrective Actions and Schedule

The grantee in its response to the draft report stated that as part of the pre-award activity, and listed on Metra’s checklist is, “Receiving an Independent Cost Estimate of Contract/Purchase Order Valuation.” The response added that this checklist is being used and emphasis will be placed upon staff to improve supplying adequate supporting documentation.

### Element 36 - Evaluation [RFP]

"Procurement By Competitive Proposal/Request for Proposals (RFP) . . . If this procurement method is used, the following requirements apply:

- (1) ...All evaluation factors will be identified along with their relative importance . . .
- (3) Grantees will have a method in place for conducting technical evaluations of the proposals received and for selecting awardees." [FTA C 4220.1E, ¶ 9.d. (1) & (3)]

### Discussion

The grantee is “deficient” with respect to this element. We reviewed four procurement files involving requests for proposals and found one file was deficient. We found in the deficient file documentation to support the grantee had performed the Step 1 evaluation, covering experience and performance. However, we were unable to find documentation to support the grantee’s conduct of the Step 2 evaluation. The solicitation stated “the evaluation team will evaluate each short-listed proposal, including using the Step 2 evaluation factors.... For each contract, the Step 2 factors are the Step 1 factors plus cost and cost effectiveness. Cost effectiveness is a measure of how much product/service is being offered per dollar spent, or of “bang for the buck”.” This same file lacked any documentation of evaluation comparisons between or among contractors.

### Best Practices/Advisory Comments

Within 30 days after the date of this report, the grantee should develop and implement management controls to ensure that RFP solicitations identify all evaluation factors and their relative importance so that all bidders have a fair chance to obtain the contract. It is also a requirement to evaluate proposals as stated in the solicitation and to include documentation of the evaluation results in the procurement files.

### Corrective Actions and Schedule

The grantee in its response to the draft report stated that when multiple awards are made off one RFP solicitation, Metra will keep a complete copy of the evaluation scoring and committee

recommendations in each contract file (step 1 and step 2 evaluations with supporting documents). This process will provide for each contract file to be complete on its own and will be in place for future RFP solicitations.

### ***Element 37- Price and Other Factors [RFP]***

“If this procurement method is used the following requirements apply: ... Awards will be made to the responsible firm whose proposal is most advantageous to the grantee’s program with price and other factors considered. [FTA C 4220.1E, ¶ 9.d. (4)] (Emphasis added)

#### Discussion

The grantee is “deficient” with regard to this element. We reviewed three procurement files involving requests for proposals and found that one file lacked documentation that would indicate that a determination had been made that the successful proposal was the most advantageous with respect to price and other factors having been considered. In this file, which was for developing locally preferred documents, the “Brooks Act” procedures were employed for the “Step 1” evaluation. The selection was predicated upon the proposals receiving the highest technical rating/score, only then would the successful offerors, or the “short list, be requested to submit a cost/price proposal. The second part of the evaluation, “Step 2” consists of interviews of the short-listed offerors, a rescoring of the technical proposal, and a score assigned to the proposed cost/price proposal. In this particular file, as well as others we reviewed, cost and cost effectiveness is assigned a very low percentage of the overall attainable score. The points assigned amounted to no more than 5% and when factored back into the overall evaluated score lose any significance or importance. If price is not given a significant weight in the evaluation scheme it cannot be “considered” in compliance with the requirements of the FTA Circular. There was no evidence of any negotiations being conducted, and the award was made on a not to exceed basis (\$300,000), even though the offeror had proposed a firm fixed price somewhat less.

#### Best Practices/Advisory Comments

Within 30 days after the date of this report, the grantee should develop and implement management controls to ensure that its competitive negotiation process includes price as a factor during initial contractor selection. Awards must be made to the responsible firm whose proposal is most advantageous to the grantee’s program with price and other factors considered. In order for price to be effectively considered in the evaluation process it must be given a weight approximately equal to other important evaluation factors. Only in architectural and engineering services procurements, shall the grantee use competitive proposal procedures based on the Brooks Act, which requires selection based on qualifications and excludes price as an evaluation factor. Price must be evaluated unless the Brooks Act applies. Price is often separately evaluated from the technical proposals so that the price figures do not unduly influence the technical evaluation. However, one of the purposes of competitive proposals is to allow an enlightened trade-off between price and technical merit; in some procurements it may be more appropriate to permit an integrated and internally consistent evaluation of price and technical factors.

### Corrective Actions and Schedule

The grantee in its response to the draft report stated that all future RFP's, where price and other factors are elements of the evaluation process, will include price at a significant weight in the evaluation scheme. The response continued that the evaluation factors will be part of the evaluation criteria for any appropriate future RFP solicitation.

### ***Element 38 - Sole Source if Other Award is Infeasible***

"Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids, or competitive proposals and at least one of the following circumstances applies:

- (a) The item is available only from a single source;
- (b) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
- (c) FTA authorizes noncompetitive negotiations-e.g., if FTA provides a joint procurement grant or a research project grant with a particular firm or combination of firms, the grant agreement is the sole source approval;
- (d) After solicitation of a number of sources, competition is determined inadequate; or
- (e) The item is an associated capital maintenance item as defined in 49 U.S.C. §5307(a) (1) that is procured directly from the original manufacturer or supplier of the item to be replaced. The grantee must first certify in writing to FTA: (i) that such manufacturer or supplier is the only source for such item; and (ii) that the price of such item is no higher than the price paid for such item by like customers." [FTA C 4220.1E, ¶ 9.h. (1)]

### Discussion

The grantee is "deficient" with respect to this element. We reviewed five noncompetitive procurement files involving sole sources and found three procurement files deficient. The deficiencies involved Original Equipment Manufacturer (OEM) type items and the grantee did not certify in writing to the FTA that the supplier is the only source for such items and that the prices for such items are no higher than the prices paid for such items by like customers.

### Best Practices/Advisory Comments

Within 30 days after the date of this report, the grantee should amend its policy and develop procedures and implement management controls consistent with the FTA Circular that avoid using sole source procurement except in circumstances where it is both necessary and in the best interest of the grantee. When a noncompetitive procurement is necessary in circumstances other than those in the FTA Circular paragraphs (a), (b), (d), or (e) shown above, the grantee should ensure that FTA approval is obtained. Before using the sole source method of procurement, first determine that the desired requirements cannot be obtained under small purchase procedures, sealed bids, or competitive proposals. If one of these three methods can be used (or is feasible), sole source is not an option. When the sole source procurement method is used, the files should provide justification for using this method of purchase and for using the particular vendor selected.

The file should contain a proper and timely approved sole source justification, which reflects the requirements and periods of performance. Adding additional items or requirements or additional periods of time of performance require additional sole source justification.

### Corrective Actions and Schedule

The grantee in its response to the draft report provided that Metra procurements involving original equipment manufacturer (OEM) type materials that are sole source will contain a certification in writing in the contract file that the supplier is the only source for such items and that the prices for such materials are no higher than the prices paid for such items by like customers. In addition, a copy of the (OEM) notification letter to the FTA will be included in the appropriate contract file.

### *Element 39 - Cost Analysis Required [Sole Source]*

"A cost analysis, i.e., verifying the proposed cost data, the projections of the data, and the evaluation of the specific elements of costs and profit, is required." [FTA C 4220.1E, ¶ 9.h. (2)]

### Discussion

The grantee is "deficient" with respect to this element. We reviewed five noncompetitive procurement files involving sole source situations, and found only one of the files did not contain documentation that would have supported that an adequate cost analysis had been performed which verified the cost data, any projections of cost data and the evaluation of specific elements of costs and profit. There was no element-by-element analysis or discussion of the cost or profit and no evidence of any negotiations being conducted at that level. In the other four files, documentation was found to support that the prices were reasonable. Generally, the documentation demonstrated the prices were less than experienced before from the same supplier, or that the prices were less than the rate of inflation or certain price/product indices, or that the prices were less than the published price lists. Lacking a cost analysis, the grantee must demonstrate price reasonableness by showing the prices were established on the basis of a catalog or market price of a commercial product sold in substantial quantities to the general public, and getting the contractor to offer a most favored customer clause stating the price is no more than that offered to others under like situations.

### Best Practices/Advisory Comments

Within 30 days after the date of this report, the grantee should develop and implement management controls to ensure that an adequate cost analysis is performed for sole source procurements. A contract file checklist and a review by the manager or supervisor are a good way of ensuring compliance with this element. The analysis should be documented in the contract or purchase order file. The cost analysis should include an evaluation of labor, materials, other direct costs, overhead rates, G&A rates, and a profit factor. When negotiations take place the file should be documented to reflect the results of the negotiations and the rationale behind the agreements reached.

### Corrective Actions and Schedule

The grantee in its response to the draft report stated that this sole source procurement was for blast gate kits to be applied to the EMD built locomotives. The response added that the kits were designed and built specifically for Metra, therefore, there was no available pricing to compare to other similar customers. Also, documentation requesting price/cost information and the vendors response was in the contract file.

### Reviewer's Comments

FTA may wish to follow-up with the grantee to verify that adequate internal management controls are established to ensure that an adequate cost analysis, which includes an evaluation of labor, materials, other direct costs, overhead rates, G&A rates, and profit, is performed for similar sole source procurements.

### **Element 40 - *Evaluation of Options***

"Grantees may include options in contracts. An option is a unilateral right in a contract by which, for a specified time, a grantee may elect to purchase additional equipment, supplies, or services called for by the contract, or may elect to extend the term of the contract. If a grantee chooses to use options . . . The option quantities or periods contained in the contractor's bid or offer must be evaluated in order to determine contract award. When options have not been evaluated as part of the award, the exercise of such options will be considered a sole source procurement." [FTA C 4220.1E, ¶ 9.i. & 9.i. (1)]

### Discussion

The grantee is "deficient" with respect to this element. We reviewed two procurement files that included options and found one procurement file failed to adequately address this element. The solicitation included a three-year basic period of performance and two one-year option periods of performance. The offerors when submitting proposals did not price the option years, therefore the grantee was unable to evaluate unpriced option years. The grantee, however, included the unpriced option periods in the contract. Options that are not evaluated and are unpriced are not options at all. The grantee therefore has no unilateral right to exercise such an option and is therefore placed in either a sole source or recompetition situation.

### Best Practices/Advisory Comments

Within 30 days after the date of this report, the grantee should develop and implement management controls that ensure that options are priced and evaluated as part of the contract award. The grantee should further ensure, when using options, that they have the unilateral right to exercise the options. Often the prices of the option years determine which contractor has the most advantageous bid for the grantee. On the other hand, an apparent low bidder may in fact be the high bidder after the prices of the option years are considered. If a market is such that offerors are unable to propose prices for the option years, the solicitation may identify an applicable index to be used as an escalator and the mechanics for its use. These escalation provisions must be

firmly established in the solicitation and the contract. The offeror should be advised in the solicitation how the option year price will be calculated, evaluated and the selection made.

#### Corrective Actions and Schedule

The grantee in its response to the draft report stated future solicitations where an option is part of the solicitation, the price will include the option quantities or time periods so that the option price is evaluated.

#### **Element 41 - *Cost or Price Analysis***

"Grantees must perform a cost or price analysis in connection with every procurement action, including, contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation . . ." [ FTA C 4220.1E, ¶ 10.]

#### Discussion

The grantee is "deficient" with respect to this element. We reviewed 19 procurement files involving request for proposals, invitations for bids, and small purchases and found two deficient files. Basically the deficiency resulted from a general lack of detailed documentation to support the results of a cost or price analysis or whether a cost or price analysis had ever been performed. In one deficient procurement file we found an award was made to the offeror with the highest technical score, who was also the highest priced offeror. We found no detailed explanation or analysis of the award decision. A memo in this same file indicated the "rates in connection with the award for the subject project to the subject company have been reviewed and appear fair and reasonable." No "rates" could be found since the cost/price proposal was based on fixed prices per units and the in-house estimate was a single dollar amount with no backup details. The same memo indicated the proposed price was 43% less than the in-house estimate (\$125,000 vs. \$71,250), yet the contract was awarded for the full yearly estimated amount.

#### Best Practices/Advisory Comments

Within 30 days after the date of this report, the grantee should develop and implement management controls to ensure that cost or price analysis is conducted and documented in the procurement file.

#### Corrective Actions and Schedule

The grantee in its response to the draft report stated that they will be more diligent in providing adequate support documentation as evident in the other files that were found to be not deficient. The response added that a cost/price analysis is part of Metra's checklist.

#### **Element 42 - *Written Record of Procurement History***

"Grantees shall maintain records detailing the history of a procurement. At a minimum, these records shall include: (1) the rationale for the method of procurement, (2) selection of contract

type, (3) reasons for contractor selection or rejection, and (4) the basis for the contract price." [FTA C 4220.1E, ¶ 7.i.]

### Discussion

The grantee is "deficient" with respect to this element. We reviewed 24 procurement files involving request for proposals, invitation for bids, sole source procurements, and small purchases for evidence of a written record of procurement history and found four files did not contain an adequate procurement history or file documentation. With some effort, the reviewers were able to locate enough documentation scattered throughout the file to be able to piece together a reasonable history of the procurement files found not deficient. It is suggested when multiple contract awards result from a single solicitation, a brief summarization be included in the files which do not contain the detailed evaluations. In addition, the recommendations for award (s) resulting from the proposal evaluations should explain the rationale for the basis for the contract price, and any trade offs between the technical and cost/price proposals, and why the grantee considers the final price to be fair and reasonable.

### Best Practices/Advisory Comments

Within 30 days after the date of this report, the grantee should develop and implement management controls to ensure that procurement files are properly documented with evidence supporting the determinations made during each stage of the procurement process. A complete contract file checklist is a good management review tool to achieve this purpose. The documentation should include:

- (a) Rationale for the method of procurement;
- (b) Independent Cost Estimates;
- (c) Copies of published notices of proposed contract action;
- (d) The evaluations of bids and selections of firms for negotiations and award;
- (e) The costs negotiated by the parties and the determination that the price is fair and reasonable;
- (f) A cost or price analysis, as appropriate;
- (g) A summary record of negotiations, if appropriate; and
- (h) All correspondence and data in support of relevant contractual actions.

Procurement files should be a complete record of procurement actions and should fully support contractors' bid and price. If written quotes/bids are required, then these should become part of the file. If the procurement action is the result of a contract amendment or exercise of an option, sufficient data should be included to fully support the basis for the price and procurement action.

### Corrective Actions and Schedule

The grantee in its response to the draft report stated that when multiple awards are made off one RFP solicitation, Metra will keep a complete copy of the evaluation scoring and committee recommendations in each contract file (step 1 and step 2 evaluations with supporting documents). This process will provide for each contract file to be complete on its own and strengthen the existing procedure.

### ***Element 43 – Exercise of Options***

“Grantees may include options in contracts. An option is a unilateral right in a contract by which, for a specified time, a grantee may elect to purchase additional equipment, supplies, or services called for by the contract, or may elect to extend the term of the contract. If a grantee chooses to use options, the requirements below apply:

#### **(2) Exercise of Options.**

(a) A grantee must ensure that the exercise of an option is in accordance with the term and conditions of the option stated in the initial contract awarded.

(b) An option may not be exercised unless the grantee has determined that the option price is better than prices available in the market or that the option is the more advantageous offer at the time the option is exercised.” [FTA C 4220.1E, ¶9.i.(2)]

#### **Discussion**

The grantee is “deficient” with respect to this element. We reviewed two procurement files wherein the grantee had exercised a priced option, however, in one file no documentation was found to support this action. The file did not indicate the grantee had made and documented the required determination that the option prices were better than prices available in the market or that the option was the most advantageous offer at the time the option was exercised.

#### **Best Practices/Advisory Comments**

Within 30 days of the date of this report, the grantee should establish policies, develop procedures and implement management controls to ensure that when exercising an option the determination is made that the option price is fair and reasonable at the time the option is exercised and the determination is documented in the procurement file.

#### **Corrective Actions and Schedule**

The grantee in its response to the draft report stated that they take exception to this deficiency. The response pointed out that the original solicitation contained the total quantity requested, 12 complete locomotive overhaul kits. The response continued that the IFB stated that the initial contract award would be for the first six (6) complete kits, and that the remaining six (6) complete kits would be released on a separate purchase order at a time later in the same year.

#### **Reviewer’s Comments**

FTA may wish to follow-up with the grantee to ensure that whenever exercising options the file reflects that the option price is the most advantageous at the time the option is exercised.

## ***Element 56 - Statutory and Regulatory Requirements***

"A current but not all inclusive and comprehensive list of statutory and regulatory requirements applicable to grantee procurements (such as Davis-Bacon Act, Disadvantaged Business Enterprise, Clean Air and Buy America) is contained in the FTA Master Agreement. Grantees are responsible for evaluating these requirements for relevance and applicability to each procurement. For example, procurements involving the purchase of iron, steel, and manufactured goods will be subject to the "Buy America" requirements in 49 C.F.R. Part 661. Further guidance concerning these requirements and suggested wording for contract clauses may be found in FTA's Best Practices Procurement Manual." [FTA C 4220.1E, ¶ 16.]

### **Discussion**

The grantee is "deficient" with respect to this element. We reviewed 14 procurement files involving request for proposals, invitation for bids, and sole source procurements to determine whether the solicitations and the resultant agreements contained the appropriate FTA required clauses. We found two files to be deficient. It should be noted, in the other not deficient files, we found the grantee included a comprehensive list of the required clauses.

### **Best Practices/Advisory Comments**

Within 30 days of this report, the grantee should develop procedures and implement management controls to ensure that all procurements funded with FTA funds contain the appropriate statutory and regulatory clauses. The Best Practices Procurement Manual, Section 8.1, provides that "Appendix A.1 of this Manual contains thirty model contract clauses that are either federally required or suggested model clauses that you may include in contracts. The clauses contained in this Appendix include the following common elements, which will be helpful to grantees in deciding if a specific clause is required in a particular procurement:

**Applicability to Contracts** - discusses the types of contracts for which the clause is applicable.

**Flow Down** - discusses to which prime contractors and which level of subcontractors the clauses apply.

**Mandatory Clause/Language** - includes the model clause, identified by FTA as either a required (specified) clause or a suggested-language clause."

### **Corrective Actions and Schedule**

The grantee in its response to the draft report stated that the two deficient files lacking the appropriate FTA clauses is an error of omission. The response pointed out that the appropriate clauses are part of Metra's contract and are generally contained in an applicable exhibit to the contract. Also, Metra's checklist will be updated within 30 days to correct the deficiency noted.

## C. PRE-AWARD AND POST-DELIVERY REVIEW REQUIREMENTS

“A recipient purchasing revenue service rolling stock with funds obligated by FTA on or after October 24, 1991, must certify to FTA that it will conduct or cause to be conducted pre-award and post-delivery audits as prescribed in this part. In addition, such a recipient must maintain on file the certifications required under subparts B, C, and D of this part.” [49 CFR § 663.7]

### *Pre-Award*

“A recipient purchasing revenue service rolling stock with FTA funds must ensure that a pre-award audit under this part is completed before the recipient enters into a formal contract for the purchase of such rolling stock.” [49 CFR § 663.21]

“A pre-award audit under this part includes - (a) A Buy America certification as described in § 663.25 of this part; (b) A purchaser’s requirements certification as described in § 663.27 of this part; and (c) Where appropriate, a manufacture’s Federal Motor Vehicle Safety certification information as described in § 663.41 or § 663.43 of this part.” [49 CFR § 663.23]

The grantee shall ensure before signing a contract with a supplier that the Buy American Certification has been reviewed and verified for both the 60% domestic content; and the proposed U.S. final assembly location, operations, and total costs. The grantee, before signing a contract with a supplier, shall have performed the “Purchaser’s Requirements Certification” and checked bid specification compliance with the solicitation specifications and completed the manufacturer capability study. The grantee before signing a contract with a supplier for buses shall have requested and received the manufacturer’s letter satisfying the “Federal Motor Vehicle Safety Standards (FMVSS) Certification”. In the event any of the foregoing has not been accomplished, the grantee has requested and received a waiver from FTA.

### Discussion

The grantee is “not deficient” with respect to this review requirement. We reviewed the only procurement for rolling stock (27 Diesel Electric Locomotives) funded with FTA funds and subject to the required reviews and certifications. We found all certifications properly signed by the grantee and in the procurement file.

### *Post-Delivery*

“A recipient purchasing revenue service rolling stock with FTA funds must ensure that a post-delivery audit under this part is completed before title to the rolling stock is transferred to the recipient.” [49 CFR § 663.31]

“A post-delivery audit under this part includes - (a) A post-delivery Buy America certification as described in § 663.35 of this part; (b) A post-delivery purchasers certification as described in § 663.37 of this part; and (c) When appropriate, a manufacturer’s Federal Motor Vehicle Safety Standard self-certification information as described in § 663.41 and § 663.43 of this part.” [49 CFR § 663.33]

The grantee shall insure before using the vehicles in transit service that the "Buy American Certification" has been reviewed and verified for both the 60% domestic content; and the actual U.S. final assembly location, operations, and total costs. In addition, the Purchaser's Requirements Certification for procurements of rail vehicles or more than ten buses or modified vans is completed for the Resident Inspector's report and the Visual Inspections and Road Tests or Performance Tests in the case of rail vehicles. Finally, the grantee has verified that the Federal Motor Vehicle Safety Standards (FMVSS) sticker is affixed to each bus. In the event that any of the foregoing this has not been accomplished the grantee has requested and received a waiver from the FTA.

### Discussion

The grantee is "not deficient" with respect to this review requirement. We reviewed the only procurement for rolling stock (27 Diesel Electric Locomotives) funded with FTA funds and subject to the required reviews and certifications. We found all certifications properly signed by the grantee and in the procurement file.

### **D. OTHER MATTERS**

**Internal Controls - Separation of Duties.** Many of Metra's requirements are procured using "Blanket Contracts." These are basic agreements under which specific services may be ordered and priced when needed. These basic agreements, established by the Materials Management Department, contain a general scope of work within which specific tasks may be ordered. They also contain the contractor's labor and overhead rates. However, these Blanket Contracts do not contain the price for any actual tasks. When specific services are needed, the requirements organization (Engineering) develops the specific scope of work. The same requirements organization then solicits a cost proposal from the contractor, receives and evaluates the contractor's technical and cost proposal, conducts any necessary discussions and issues an executed task order under the contract. Now the same organization is responsible for monitoring performance under the contract task order. When the end product is delivered the same organization is responsible for final inspection and acceptance. It also certifies the invoice for payment.

The Materials Management Department (Contracts) is not involved in any aspect of the actual ordering and pricing of specific services under these Blanket Contracts. This raises "Internal Controls-Separation of Duties" concerns. Normally, in public organizations, the contracts department is the agency's business manager assuring that public funds are expended in accordance with law and regulation. It also assures that contract actions are executed strictly in accordance with the terms and conditions of the contract and that cost of services rendered are fair and reasonable. This separation of duties between the contracting office and the organization responsible for originating the requirement, evaluating technical performance and accepting the final product is a fundamental principle in good internal controls.

The solicitation, pricing, and execution of task orders under these Blanket Contracts are key contracting functions that need to be performed by the Materials Management Department. It is recommended that these functions be reestablished in that Department.

### Corrective Actions and Schedule

The grantee in its response to the draft report stated that the user groups will use Metra's "4400 Form" to describe the scope of services and obtain cost and estimated hours for respective scope of work from the contractor. The response continued that Materials Management will review the scope of work, hours, rates submitted, and will determine if it is fair. In addition, a letter will be added to each appropriate contract file. The grantee concluded that this process will strengthen the existing procedure and is already being implemented.

## REPORT SUMMARY TABLE

	Element	Basic Requirement	ND	D	NA	Total	Corrective Actions
1)	Written Standards of Conduct	FTA C4220.1E, ¶ 7.c.	✓				
2)	Contract Administration System	FTA C4220.1E, ¶ 7.b.	✓				
3)	Written Protest Procedures	FTA C4220.1E, ¶ 7.1.	✓				
4)	Prequalification System	FTA C4220.1E, ¶ 8.d.	✓				
5)	Procedures for Ensuring Most Efficient and Economic Purchase	FTA C4220.1E, ¶ 7.d.	✓				
6)	Procurement Policies & Procedures	FTA C4220.1E, ¶ 7.a.		✓			Amend Procedures
7)	Independent Cost Estimate	FTA C4220.1E, ¶ 10.	16	8		24	Establish Mgt. Controls
8)	A&E Geographic Preference	FTA C4220.1E, ¶ 8.a.	1			1	
9)	Unreasonable Qualification Requirements	FTA C4220.1E, ¶ 8.a.	19			19	
10)	Unnecessary Experience and Bonding	FTA C4220.1E, ¶ 8.a.	14			14	
11)	Organizational Conflict of Interest	FTA C4220.1E, ¶ 8.a.	1		13	1	
12)	Arbitrary Action	FTA C4220.1E, ¶ 8.a.	24			24	
13)	Brand Name Restrictions	FTA C4220.1E, ¶ 8.a.	5		19	5	
14)	Geographic Preferences	FTA C4220.1E, ¶ 8.b.	24			24	
15)	Contract Term Limitation	FTA C4220.1E, ¶ 7.m.	1		23	1	
16)	Written Procurement Selection Procedures	FTA C4220.1E, ¶ 8.c.	9			9	
17)	Solicitation Prequalification Criteria	FTA C4220.1E, ¶ 8.d.			9		
18)	Award to Responsible Contractors	FTA C4220.1E, ¶ 7.h.	14			14	
19)	Sound and Complete Agreement	FTA C4220.1E, ¶ 15.	14			14	
20)	No Splitting [Micro-purchase]	FTA C4220.1E, ¶ 9.a.	10			10	

ND – Not Deficient  
D – Deficient  
NA – Not Applicable

## REPORT SUMMARY TABLE

	Element	Basic Requirement	ND	D	NA	Total	Corrective Actions
21)	Fair and Reasonable Price Determination [Micro-purchase]	FTA C4220.1E, ¶ 9.a.	10			10	
22)	Micro-Purchase Davis Bacon	FTA C4220.1E, ¶ 9.a.			10		
23)	Price Quotations	FTA C4220.1E, ¶ 9.b.	10			10	
24)	Clear, Accurate, and Complete Specif	FTA C4220.1E, ¶ 8.c.	24			24	
25)	Adequate Competition - Two or More Competitors	FTA C4220.1E, ¶ 9.c.	9			9	
26)	Firm Fixed Price [Sealed Bid]	FTA C4220.1E, ¶ 9.c.	5			5	
27)	Selection on Price [Sealed Bid]	FTA C4220.1E, ¶ 9.c.	5			5	
28)	Discussions Unnecessary [Sealed Bid]	FTA C4220.1E, ¶ 9.c.	5			5	
29)	Advertised/Publicized	FTA C4220.1E, ¶ 9.c.	9			9	
30)	Adequate Solicitation	FTA C4220.1E, ¶ 9.c.	9			9	
31)	Sufficient Bid Time [Sealed Bid]	FTA C4220.1E, ¶ 9.c.	5			5	
32)	Bid Opening [Sealed Bid]	FTA C4220.1E, ¶ 9.c.	5			5	
33)	Responsiveness [Sealed Bid]	FTA C4220.1E, ¶ 9.c.	5			5	
34)	Lowest Price [Sealed Bid]	FTA C4220.1E, ¶ 9.c.			5		
35)	Rejecting Bids [Sealed Bid]	FTA C4220.1E, ¶ 9.c.			5		
36)	Evaluation [RFP]	FTA C4220.1E, ¶ 9.d.	3	1		4	Establish Mgt. Controls
37)	Price and Other Factors [RFP]	FTA C4220.1E, ¶ 9.d.	2	1	1	3	Establish Mgt. Controls
38)	Sole Source if Other Award is Infeasible	FTA C4220.1E, ¶ 9.f.	2	3		5	Establish Mgt. Controls
39)	Cost Analysis Required [Sole Source]	FTA C4220.1E, ¶ 9.h.	4	1		5	Establish Mgt. Controls
40)	Evaluation of Options	FTA C4220.1E, ¶ 9.i.	1	1	11	2	Establish Mgt. Controls

ND – Not Deficient

D – Deficient

NA – Not Applicable

## REPORT SUMMARY TABLE

	Element	Basic Requirement	ND	D	NA	Total	Corrective Actions
41)	Cost or Price Analysis	FTA C4220.1E, ¶ 10.	17	2		19	Establish Mgt. Controls
42)	Written Record of Procurement	FTA C4220.1E, ¶ 7.i.	20	4		24	Establish Mgt. Controls
43)	Exercise of Options	FTA C4220.1E, ¶ 9.i.	1	1	12	2	Establish Mgt. Controls
44)	Out of Scope Changes	FTA C4220.1E, ¶ 9.f.	1		13	1	
45)	Advance Payments	FTA C4220.1E, ¶ 12.a.	14			14	
46)	Progress Payments	FTA C4220.1E, ¶ 12.b.	10		4	10	
47)	Time & Materials Contracts	FTA C4220.1E, ¶ 7.j.			14		
48)	Cost Plus Percentage of Cost	FTA C4220.1E, ¶ 10.e.	14			14	
49)	Liquidated Damages Provisions	FTA C4220.1E, ¶ 13.	5		9	5	
50)	Piggybacking	FTA C4220.1E, ¶ 7.p.			14		
51)	Qualifications Exclude Price [A&E]	FTA C4220.1E, ¶ 9.e.	1			1	
52)	Serial Price Negotiations [A&E]	FTA C4220.1E, ¶ 9.e.	1			1	
53)	Bid Security [Construction Over \$100,000]	FTA C4220.1E, ¶ 11.a.	3			3	
54)	Performance Security [Construction Over \$100,000]	FTA C4220.1E, ¶ 11.b.	3			3	
55)	Payment Security [Construction Over \$100,000]	FTA C4220.1E, ¶ 11.c.	3			3	
56)	Clauses	FTA C4220.1E, ¶ 16.	12	2		14	Establish Mgt. Controls

ND – Not Deficient  
D – Deficient  
NA – Not Applicable

DESCRIPTION OF NOT DEFICIENT ELEMENTS

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**Element 8 – *A&E Geographic Preference***

“...geographic location may be a selection criterion in procurements for architectural and engineering (A&E) services provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.” [FTA C 4220.1E, ¶ 8.b]

**Element 9 - *Unreasonable Qualifications Requirements***

"Grantees shall conduct procurements in a manner that prohibits the use of statutory or administratively imposed in-State or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. This does not preempt State licensing laws. However, geographic location may be a selection criterion in procurements for architectural and engineering (A&E) services provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract." [FTA C 4220.1E, ¶ 8.b.]

**Element 10 – *Unnecessary Experience and Excessive Bonding***

"...Some situations considered to be restrictive of competition include, but not limited to: (2) Unnecessary experience and excessive bonding requirements." [FTA C 4220.1E, ¶ 8.a. (2)]

**Element 11 - *Organizational Conflicts of Interest***

“...An organizational conflict of interest means that because of other activities, relationships, or contracts, a contractor is unable, or potentially unable, to render impartial assistance or advice to the grantee; a contractor’s objectivity in performing the contract work is or might be otherwise impaired; or a contractor has an unfair competitive advantage; ...” [FTA C 4220.1E, ¶ 8.a. (5)]

**Element 12 – *Arbitrary Action***

“All procurement transactions will be conducted in a manner providing full and open competition. Some of the situations considered to be restrictive of competition include, but are not limited to; ... (7) Any arbitrary action in the procurement process.” [FTA C 4220.1E, ¶ 8.a. (7)]

**Element 13 - *Brand Name Restrictions***

“Specifying only a “brand name” product instead of allowing “an equal” product to be offered without listing its salient characteristics.

Grantees may define the salient characteristics in language similar to the following:

## DESCRIPTION OF NOT DEFICIENT ELEMENTS

(a) 'Original Equipment Manufacturer (OEM) part # 123 or approved equal that complies with the original equipment manufacturer's requirements or specifications and will not compromise any OEM warranties'; or

(b) 'Original Equipment Manufacturer part #123 or approved equal that is appropriate for use with and fits properly in [describe the bus, engine, or other component the part must be compatible with] and will not compromise any OEM warranties'; . . ." [FTA C 4220.1E, ¶ 8.a.(6)]

**Element 14 – *Geographic Preferences***

"Grantees shall conduct procurements in a manner that prohibits the use of statutorily or administratively imposed in-State or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. This does not preempt State licensing laws." [FTA C 4220.1E, ¶ 8.b.]

**Element 15 - *Contract Term Limitation***

"Grantees shall not enter into any contract for rolling stock or replacement parts with a period of performance exceeding five (5) years inclusive of options." [FTA C 4220.1E, ¶ 7.m.]

**Element 16 - *Written Procurement Selection Procedures***

"Grantees shall have written selection procedures for procurement transactions. All solicitations shall: . . . (2) Identify all requirements that offerors must fulfill and all other factors to be used in evaluating bids or proposals." [FTA C 4220.1E, ¶ 8.c.]

**Element 18 - *Award to Responsible Contractors***

"Grantees shall make awards only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration shall be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources." [FTA C 4220.1E, ¶ 7.h.]

**Element 19 - *Sound and Complete Agreement***

"All contracts shall include provisions to define a sound and complete agreement. In addition, contracts and subcontracts shall contain contractual provisions or conditions that allow for:

- a. Administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, including sanctions and penalties as may be appropriate. (All contracts in excess of the small purchase thresholds.)

## DESCRIPTION OF NOT DEFICIENT ELEMENTS

- b. Termination for cause and for convenience by the grantee or subgrantee including the manner by which it will be effected and the basis for settlement. (Applicable to all contracts in excess of \$10,000)" [FTA C 4220.1E, ¶ 15.]

**Element 20 - *No Splitting [Micro-purchase]***

"...There should be . . . no splitting of procurements to avoid competition." [FTA C 4220.1E, ¶ 9.a]

**Element 21 - *Fair and Reasonable Price Determination***

"Procurement by Micro-Purchases . . . Minimum documentation is required: A determination that the price is fair and reasonable and how this determination was derived." [FTA C 4220.1E, ¶ 9.a.]

**Element 23 - *Price Quotations [Small Purchase]***

"Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies or other property that cost more than \$2,500 but do not cost more than the simplified acquisition threshold fixed at 41 U.S.C. §403 (11) (currently set at \$100,000). If small purchase procedures are used, price or rate quotations shall be obtained from an adequate number of qualified sources." [FTA C 4220.1E, ¶ 9.b.]

**Element 24 - *Clear, Accurate, and Complete Specifications***

"All solicitations shall: (1) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features that unduly restrict competition. The description may include a statement of the qualitative nature of the material, product, or service to be procured and when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use." [FTA C 4220.1E, ¶ 8.c. (1)]

"In order for sealed bidding to be feasible, the following conditions should be present:(a) A complete, adequate, and realistic specification or purchase description is available" [FTA C 4220.1E, ¶ 9.c. (1) (a)]

"If this procurement method is used, . . .The invitation for bids, which will include any specifications and pertinent attachments, shall define the terms or services sought in order for the bidder to properly respond " [FTA C 4220.1E, ¶ 9.c. (2)(b)]

## DESCRIPTION OF NOT DEFICIENT ELEMENTS

**Element 25 - Adequate Competition - Two or More Competitors**

“In order for sealed bidding to be feasible, the following conditions should be present: ... (b) Two or more responsible bidders are willing and able to compete effectively for the business; ...” [FTA C 4220.1E, ¶ 9.c. (1) (b)]

“The competitive proposal method of procurement is normally conducted with more than one source submitting an offer i.e., proposal.” [FTA C 4220.1E, ¶ 9.d.]

**Element 26 - Firm Fixed Price [Sealed Bid]**

“The procurement lends itself to a firm fixed price contract . . .” [FTA C 4220.1E, ¶ 9.c. (1)(c)]

**Element 27 - Selection on Price [Sealed Bid]**

“...the selection of the successful bidder can be made principally on the basis of price.” [FTA C 4220.1E, ¶ 9.c. (1)(c)]

**Element 28 - Discussions Unnecessary [Sealed Bid]**

“No discussions with bidders is needed.” [FTA C 4220.1E, ¶ 9.c. (1)(d)]

**Element 29 - Advertised/Publicized**

If the sealed bid procurement method is used, . . . “The invitation for bids will be publicly advertised. . .” [FTA C 4220.1E, ¶ 9.c. (2) (a)]

If the request for proposals method is used, . . . “Request for proposals will be publicized . . .” [FTA C 4220.1E, ¶ 9.d. (1)]

**Element 30 - Adequate Solicitation**

(a) Sealed Bids - “If this procurement method is used, . . . bids shall be solicited from an adequate number of known suppliers...” [FTA C 4220.1E, ¶ 9.c. (2)(a)]

(b) Competitive Proposals - If this procurement method is used the following requirements apply: . . . Proposals will be solicited from an adequate number of qualified sources.” [FTA C 4220.1E, ¶ 9.d. (2)]

**Element 31 - Sufficient Bid Time [Sealed Bid]**

“If this procurement method is used, . . . sufficient time to prepare bids prior to the date set for opening the bids;” [FTA C 4220.1E, ¶ 9.c. (2)(a)]

DESCRIPTION OF NOT DEFICIENT ELEMENTS

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**Element 32 - Bid Opening [Sealed Bid]**

“Procurement By Sealed Bids/Invitation For Bid (IFB) . . . (c) All bids will be publicly opened (emphasis added) at the time and place described in the invitation for bids,” [FTA C 4220.1E, ¶ 9.c. (2) (c)]

**Element 33 - Responsiveness [Sealed Bid]**

“If this procurement method is used, . . . A firm fixed-price contract award will be made in writing to the lowest responsive and responsible bidder.” [FTA C 4220.1E, ¶ 9.c. (2)(d)]

**Element 44 - Out of Scope Changes**

“. . . A contract change that is not within the scope of the original contract is considered a sole source procurement . . .” [FTA C 4220.1E, ¶ 9.h.]

**Element 45 – Advanced Payments**

“Advance Payments. FTA does not authorize and will not participate in funding payments to a contractor prior to the incurrence of costs by the contractor unless prior written concurrence is obtained from FTA. There is no prohibition on a grant recipient’s use of local match funds for advance payments. However, advance payments made with local funds before a grant has been awarded, or before the issuance of a letter of no prejudice or other pre-award authority, are ineligible for reimbursement.” [FTA C 4220.1E, ¶ 12.a.]

**Element 46 - Progress Payments**

“Progress Payments. Grantees may use progress payments provided the following requirements are followed: (1) Progress payments are only made to the contractor for costs incurred in the performance of the contract. (2) The grantee must obtain adequate security for progress payments. Adequate security may include taking title, letter of credit or equivalent means to protect the grantee’s interest in the progress payment.” [FTA C 4220.1E, ¶ 12.b.]

**Element 48 - Cost Plus Percentage of Cost**

“The cost plus a percentage of cost and percentage of construction cost methods of contracting shall not be used.” [FTA C 4220.1E, ¶ 10.e.]

**Element 49 - Liquidated Damages Provisions**

“A grantee may use liquidated damages if it may reasonably expect to suffer damages and the extent or amount of such damages would be difficult or impossible to determine. The assessment for damages shall be at a specific rate per day for each day of overrun in contract time; and the rate must be specified in the third party contract. Any liquidated damages

## DESCRIPTION OF NOT DEFICIENT ELEMENTS

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recovered shall be credited to the project account involved unless the FTA permits otherwise.” [FTA C 4220.1E, ¶ 13.]

### **Element 51 - *Qualifications Exclude Price [A&E]***

"Procurement of Architectural and Engineering Services (A&E). Grantees shall use qualification-based competitive proposal procedures (i.e., Brooks Act procedures) when contracting for A&E services as defined in 40 U.S.C. §541 and 49 U.S.C. §5325(d). Services subject to this requirement are program management, construction management, feasibility studies, preliminary engineering, design, architectural, engineering, surveying, mapping, and related services. Qualifications-based competitive proposal procedures require that: (1) An offeror's qualifications be evaluated; (2) Price be excluded as an evaluation factor"; [FTA C 4220.1E, ¶ 9.e. (1) & (2)]

### **Element 52 - *Serial Price Negotiations [A&E]***

"Qualifications-based competitive proposal procedures require that . . . (3) Negotiations be conducted with only the most qualified offeror; and (4) Failing agreement on price, negotiations with the next most qualified offeror be conducted until a contract award can be made to the most qualified offeror whose price is fair and reasonable to the grantee." [FTA C 4220.1E, ¶ 9.e. (3) & (4)]

### **Element 53 - *Bid Security [Construction over \$100,000]***

“. . . FTA has determined that grantee policies and requirements that meet the following minimum criteria adequately protect the Federal interest:

a. A bid guarantee from each bidder equivalent to five (5) percent of the bid price. The "bid guarantee" shall 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" [FTA C 4220.1E, ¶ 11.a.]

### **Element 54 - *Performance Security [Construction Over \$100,000]***

" . . . FTA has determined that grantee policies and requirements that meet the following minimum criteria adequately protect the Federal interest:

. . . b. 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; . . ." [FTA C 4220.1E, ¶ 11.b.]

DESCRIPTION OF NOT DEFICIENT ELEMENTS

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**Element 55 - *Payment Security [Construction Over \$100,000]***

“ . . . FTA has determined that grantee policies and requirements that meet the following minimum criteria adequately protect the Federal interest:

c. 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 determined to adequately protect the federal interest are as follows:

- (1) Fifty percent of the contract price if the contract price is not more than \$1 million;
- (2) Forty percent of the contract price if the contract price is more than \$1 million but not more than \$5 million; or
- (3) Two and a half million dollars if the contract price is more than \$5 million." [FTA C 4220.1E, ¶ 11.c.]

**Commuter Rail Division of the Regional Transportation  
Authority (METRA)**

**RESPONSE DATED February 26, 2007**



547 W. Jackson Blvd.

Chicago, Illinois 60661

Telephone: 312-322-6900

TTY# 1-312-322-6774

**RECEIVED**

February 26, 2007

*DGG 3/5/7*  
Dominick Gatto, Director  
Program Management & Oversight  
U.S. Department of Transportation  
Federal Transit Administration  
200 West Adams Street, Suite 320  
Chicago, IL. 60606

FEB 26 2007

FTA - REGION 5  
DEPARTMENT OF TRANSPORTATION

**Subject: Procurement System Review-Final Draft Report: METRA's Response**

Dear Mr. Gatto:

Having reviewed the Final Draft Report of the Procurement System Review and the related exit conference held on December 15, 2006, the following comments are provided for each outstanding element. Where appropriate, additional documentation is attached.

**Element 6 - Procurement Policies and Procedures**

Revisions have been made to Metra's procurement procedures. See attached procedure.

**Element 7 - Independent Cost Estimate**

As part of the Pre-Award Activity, and listed on Metra's Checklist is, "Receiving an Independent Cost Estimate of Contract/Purchase Order Valuation." This checklist is being used. Emphasis will be placed upon staff to improve supplying adequate supporting documentation.

**Element 36 - Evaluation (RFP)**

Metra's RFP process does state the evaluation criteria in the RFP document and the appropriate evaluation scoring is based upon the evaluation criteria stated. When multiple awards are made off of one RFP solicitation Metra will follow your recommendation to keep a complete copy of the evaluation scoring and committee recommendations in each contract file (step 1 and step 2 evaluations, with supporting documents), and not just refer back for original documents in another file. This process will provide for each contract file to be complete on its own. This process will be in place for future RFP solicitations.

**Element 37 - Price and Other Factors (RFP)**

The deficient file was part of a large RFP solicitation where multiple awards were to be made. Majority of the contract awards were for A & E Services, however, the deficient file was not for A & E Services and the Brooks Method was not applicable. All future RFP's, where price and other factors are elements of the evaluation process, will include price at a significant weight in the evaluation scheme. The evaluation factor will be part of the Evaluation Criteria for any appropriate future RFP solicitation. The process will strengthen the existing procedure.

**Element 38 - Sole Source if Other Award is Infeasible**

Metra procurements involving the original equipment manufacturer (OEM) type materials that are sole source will contain a certification in writing in the contract file that the supplier is the only source for such items and that the prices for such materials are no higher than the prices paid for such items by like customers. Furthermore, a copy of the (OEM) notification letter to the FTA will be included in the appropriate contract file. See attached letters.

**Element 39 - Cost Analysis Required (Sole Source)**

The single contract that was found deficient was a sole source procurement for blast gate kits to be applied to our EMD built locomotives. The kits were designed and built specifically for Metra, therefore, there was no available pricing to compare to other similar customers. Documentation requesting price/cost information and the vendor's response was in the contract file. Additionally, even if Metra could find another firm to design and install such kits, warranty claims would be voided by EMD. The relevant explanation was part of the sole source justification letter that was also in the contract file.

**Element 40- Evaluation of Options**

There was a single contract found to be deficient because it contained an option for a specific period of time to extend the contract at a later date in time. The option period was part of the solicitation but was not included in the price list. Future solicitations where an option is part of the solicitation, the price list will include the option quantities or time period so that an evaluation can be done. However, the option period for the subject contract has not been exercised.

**Element 41- Cost or Price Analysis**

Both deficient files were lacking sufficient documentation supporting a cost/price analysis. Metra will be more diligent in providing adequate support documentation as was evident in the other 17 files that were found not to be deficient. A Cost/Price Analysis is part of Metra's checklist.

**Element 42 – Written Record of Procurement History**

Procurement has reviewed the questioned documents and has submitted the attached four procurement summaries for the respective deficient files. The procurement summaries were part of their respective contract file that summarizes the history of each procurement. Each contract file also contained documentation from the initiation of the solicitation, through the award of the contract. Metra will follow your recommendation for when multiple awards are made off of one RFP solicitation to keep a complete copy of the evaluation scoring and committee recommendations in each contract file (step 1 and step 2 evaluations, with supporting documents), and not just refer back to original documents in another file. This process will provide for each contract file to be complete on its own and strengthen the existing procedure.

### Element 43 – Exercise of Options

Metra takes exception to this deficiency. The original solicitation contained the total quantity requested, 12 complete locomotive overhaul kits. The Invitation for Bid document also stated that the initial contract award would be for the first six (6) complete kits, and that the remaining six (6) complete kits would be released on a separate purchase order at a time later in the same year. The separate contracts were due to phase funding. The Invitation for Bid did not imply that six (6) kits would be awarded initially and that Metra may or might elect to award the remaining kits. The intent of the Invitation for Bid was to request pricing for 12 kits and an award would be made for 12 kits.

### Element 56 – Statutory and Regulatory Requirements

The two deficient files lacking the appropriate FTA Clauses is an error of omission. The appropriate clauses are part of Metra's contract and are generally contain in an applicable exhibit to the contract. Metra's review checklist will be updated within 30 days to correct the deficiency noted.

### Other Matters – Internal Controls- Separation of Duties

The User groups will use Metra's "4400 Form" to describe the scope of services and obtain cost and estimated hours for the respective scope of work from the contractor. Materials Management will review the scope of work, hours, rates submitted, and will determine if it is fair. A letter will be added to each appropriate contract file. This process will strengthen the existing procedure and is already being implemented. See attached letter.

I believe this responds to all the report elements. As you are aware, Metra takes pride in being fully compliant to all policies and procedures. With the adjustments to our current procedures outlined above, future procurement audits should result in a letter of no findings.

Sincerely,



Charles R. Cummins  
Division Director,  
Grant Administration

CRC/cc  
Attachments

cc: G.R.Tidwell (w/o attachments)  
J. Groner (w/o attachments)  
P. Kisielius (w/o attachments)

**Element 6 - Procurement Policies and Procedures**

## REQUISITIONING OF MATERIALS & SERVICES

### I. PURPOSE

This procedure provides instructions for the normal requisitioning of materials and/or services, and instructions for emergency requisitioning.

### II. POLICY

This procedure should be utilized in the procurement of materials and/or services, except in the direct purchase of items costing less than \$500.00 (See Direct Purchases, PU-13-RC, or Procurement Card Purchases, PU-21-RC).

Personnel making unauthorized purchase commitments may be held financially liable and may be subject to disciplinary action, including employment termination.

The requisitioner shall ascertain that the desired materials and/or services are not already available by accessing the Materials System before submitting a requisition.

Non-inventory material is to be requisitioned separately from inventory material.

Requisitions for materials and/or services will be submitted either by using the Purchase Requisition form (RC73), or the electronic requisition submittal.

Requisitions will be submitted to the appropriate Budget Authority in accordance with Financial Approval Authorization, FI-02-RC, for approval, and then forwarded to the METRA Procurement or Professional Services/Contracts Division for action.

Requisitioners may not negotiate with vendors except as necessary in direct purchasing. (See Direct Purchases, PU-13-RC, or Procurement Card Purchases, PU-21-RC). The Procurement or Professional Services/Contracts Division, or their designee, are responsible for negotiating with vendors.

For Purchase Requisitions that are FTA funded:

- Metra shall not enter into any contract for rolling stock or replacement parts with a period of performance exceeding five (5) years inclusive of options;
- All procurement transactions will be conducted in a manner providing full and open competition. Procurement By Sealed Bids/Invitation For Bid (IFB) are to be publicly solicited and a firm-fixed-price contract (lump sum or unit price) is awarded to the responsive and responsible bidder whose bid, conforming to all the material terms and conditions of the invitation for bids, is the lowest in price.

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## REQUISITIONING OF MATERIALS & SERVICES

- In order for sealed bidding to be feasible, the following conditions should be present:
  - A complete, adequate, and realistic specification or purchase description is available;
  - Two or more responsible bidders are willing and able to compete effectively for the business;
  - 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 this procurement method is used, the following requirements apply:
  - The invitation for bids 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;
  - 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;
  - All bids will be publicly opened at the time and place prescribed in the invitation for bids;
  - A firm fixed-price contract award will be made in writing to the lowest responsive and responsible bidder. 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, and
  - Any or all bids may be rejected if there is a sound documented business reason;
- Metra prohibits geographic preferences, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference;

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## REQUISITIONING OF MATERIALS & SERVICES

- Metra prohibits the cost plus a percentage of cost and percentage of construction cost methods of contracting; and
- If there is a Liquidated Damages Provision, any liquidated damages recovered shall be credited to the project account involved unless the FTA permits otherwise.

Purchase Requisitions that contain a sole source specification must be accompanied by a written memorandum, explaining the reason(s) for the restriction.

Emergency Requisitions must be accompanied by a memo fully justifying the request. The memorandum must be signed by the Manager of the Requisitioning Department, Division, or Office, or the Deputy Executive Director, if appropriate, and the Executive Director.

### III. DEFINITIONS

Budget Authority: See Glossary

Materials: See Glossary

Requisition: See Glossary

Requisitioner/User: See Glossary

Services: See Glossary

Sole Source: See Glossary

### IV. RESPONSIBILITIES

#### Requisitioner/User

Prepare the purchase requisition in accordance with the policy and procedures specified herein. Assign the proper Account/Distribution code to the requisition items. Provide thorough written justification, if specifying a sole source.

#### Budget Authority

Verify availability of funds in the appropriate budget account. Review signatures and completeness of forms. Department Head, or Director, sign approval in box #25 on Purchase Requisition form (RC73) after checking budget. Maintain a record of all requisitions and purchases to ensure that budget limitations are not exceeded. Verify proper Account/Distribution codes.

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**REQUISITIONING OF MATERIALS & SERVICES**

Procurement or Professional Services/Contract Divisions

Oversee METRA requisitioning procedures and systems. Process purchase requisitions in accordance with procurement policies and procedures. Return requisitions which are incomplete, incorrect, or reflect improper approvals for corrections and resubmission, as appropriate. Furnish the Requisitioner with a copy of the requisition, and purchase order.

General Development Department

Review and approve purchase requisition when capital funds are involved.

Material Division/User Department

Prepare independent cost estimates as required.

**V. INSTRUCTIONS**

**A. REQUISITIONING MATERIALS AND SERVICES**

Responsibility

Action

Requisitioner/User

1. Identify a need for an item or service by A) desired specifications, B) quantity needed, and C) date needed.
2. Determine that Direct Purchases, PU-13-RC or Procurement Card Purchases, PU-21-RC, do not apply and desired materials/services are not available by accessing the Material System.
3. Obtain Purchase Requisition form (RC73), and complete in accordance with the detailed instructions (Exhibit I).
4. If requisition is for construction services, establish the goal for DBE percentage requirements, liquidated damages, cost of plans and specifications, primary contractor percentage work, and bonding. If requisition is for professional services, establish the goal for DBE percentage.
5. Retain Division copy (gold). Submit the first three parts to the appropriate Budget Authority for review and approval. If Purchase Requisition Continuation Page (RC73A) (See Exhibit I, Page 2) was used, staple together to prevent loss and to

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REQUISITIONING OF MATERIALS & SERVICES

maintain sequence.

V. INSTRUCTIONS (Continued)

A. REQUISITIONING MATERIALS AND SERVICES (cont'd)

Responsibility

Action

Budget Authority

6. Review requisition:
  - a) If incomplete, incorrect, or if funds are unavailable, note and return to requisitioner for appropriate action.
  - b) If acceptable, verify and assign proper accounting/distribution code to each item entry. If Capital funds are involved, sign and date RC73 in Box #24; If Capital funds are not involved, then sign and date in Box #25. Proceed to Step 8.
7. Forward requisition to Assistant Department Head, General Development Department, if Capital funds are involved. Proceed to Step 9.
8. If Capital funds are not involved, forward as follows:
  - a) If under \$10,000, forward to Procurement or Professional Services/Contracts.
  - b) If \$10,000 or more, acquire approvals in accordance with Financial Approval Authorization, FI-02-RC, and submit to Procurement or Professional Services/Contracts.

Assistant Department Head, General Development

9. Review and approve requisition. Sign and date in Box #25. Forward to Director, Procurement or Professional Services/Contracts.

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REQUISITIONING OF MATERIALS & SERVICES

V. INSTRUCTIONS (Continued)

A. REQUISITIONING MATERIALS AND SERVICES (cont'd)

Responsibility

Action

Director, Procurement or Professional/Contracts

- 10. Receive Purchase Requisition. Review and approve if correctly filled out. If not completed correctly, return to appropriate department for correction.
- 11. Assign a Buyer/Contracting Agent to the responsibility of processing the requisition. Enter requisition into Purchase Order system (See Materials Management User Manual).
- 12. Forward approved pink copy of Purchase Requisition form (RC73) to DBE Department for their information.

Director, DBE

- 13. Review requisition and recommend additional DBE vendors for quotation solicitation. Notify Buyer/Contracting Agent of any additions to the DBE Vendor List.

B. EMERGENCY REQUISITIONS

Responsibility

Action

Requisitioner/User

- 1. Determine that an Emergency Requisition is necessary. Obtain Purchase Requisition form (RC73), and complete in accordance with the detailed instructions in Exhibit I.
- 2. Provide written memo, with appropriate signatures, justifying the Emergency Request. Attach memo to Purchase Requisition and forward for approval in accordance with Financial Approval Authorization, FI-02-RC, to:

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REQUISITIONING OF MATERIALS & SERVICES

V. INSTRUCTIONS (Continued)

B. EMERGENCY REQUISITIONS (cont'd)

Responsibility

Action

- a) Director, Procurement or Professional Services/ Contracts and Department Head, Materials Management, if requisition is under \$10,000. Then proceed to Step 4.
  - b) Deputy Executive Director, and Executive Director, if requisition is \$10,000 or over.
- Deputy Executive Director, and Executive Director      3.      Review request. If approving requisition, forward to Director, Procurement or Professional Services/Contracts.
- Director, Procurement or Professional Services/ Contracts      4.      Consult with General Counsel for review and advice on any aspects that should be considered.
5.      When Capital funds are involved, forward the requisition to the Assistant Department Head, General Development for approval.
6.      Review Emergency Requisition.
- a) If requisition is under \$10,000, approve and acquire approval of Department Head, Materials Management.
  - b) If requisition is \$10,000 and over, check for proper approvals as per Financial Approval Authorization (FI-02-RC).
  - c) If requisition is \$10,000 and over, publicly advertise the requisition in the Chicagoland six county region.
7.      Assign top priority to the requisition's processing. Bidding procedures may be suspended.

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Instructions for completing the Purchase Requisition form (RC-73)

**BLOCK #**

1. Leave blank. Procurement or Professional Services/Contracts Division will assign the Procurement number.
2. Enter current date.
3. Enter the desired delivery date for the needed items; DO NOT USE "ASAP" or other indefinite entries. Allow reasonable time for processing.
4. Leave blank. Procurement or Professional Services/Contracts Division will enter the buyer's initials that will process the requisition.
5. Check all boxes applicable. If sole source, justification should be provided in the body of the requisition and initialed, or a separate sheet should be attached. If a blanket purchase order, check if for stock (currently catalogued in Metra's Materials System) or non-stock (not currently catalogued in Metra's Materials System). Enter BPO effective date, enter estimated number of releases to be made against BPO and enter number of releasing sites.
6. Check the appropriate box where material is to be shipped or indicate an "other" location in the space provided.
7. OMIT
8. OMIT
9. Check here if an emergency requisition. Obtain required approvals. See Financial Approval Authorization, FI-02-RC.
10. Identify the Division that will conduct the final inspection of the received goods or services.
11. Enter any suggested vendors, if known.
12. List recent purchase order numbers that have been issued for the same product or service for reference purposes.
13. Enter a line item number for each item required, e.g., "1," "2," etc.
14. The Budget Authority will enter here the correct accounting distribution code numbers for each line.
15. Enter the percentage for the Account Distribution Code Number to be applied to the line item. Leave blank if Account distribution Code Number is 100%.
16. Enter the quantity required for each line item.

7. Unit of Measure (U/M). Enter abbreviation for the unit involved, matching the official listing from the Materials System. (2 letter identifier listed below)

Code	Unit of Measure	Code	Unit of Measure
BI	Bale	KG	Keg
BG	Bag	LT	Lot
BX	Box	KT	Kit
BD	Bundle	PK	Package
CN	Can	PR	Pair
CS	Case	LB	Pound
EA	Each	QT	Quart
FT	Foot	RL	Roll
GL	Gallon	ST	Set
CW	Hundred Weight	YD	Yard

18. If a catalogue item in Metra\*s Materials System, enter Metra stock part number.
19. Enter the status of the Metra Part., i.e. "N" for new or "R" for repair.
20. Enter concise description of each item. If catalogue item in Metra's Materials System, use description from part number catalog. If list of items is lengthy, use Purchase Requisition Continuation Page (RC73A). If Vendor/Manufacturer Name and/or Part Number is known, list same in description.
21. Enter estimated unit price for each item, if known.
22. Extend unit price by quantity.
23. Leave blank. Procurement or Professional Services will enter the computer assigned ship to location number.
24. Enter the Division/Department preparing the requisition, signature of the individual requisitioner and obtain Director's/Department Head's signature, if other than the Block 25 Budget Authority.
25. This block will be signed by the appropriate Budget Authority responsible for the accounting distribution code(s).
26. Signed by Director of Procurement or Professional Services/Contracts or designated representative for processing by their Division.
27. Estimate total.
28. Enter the appropriate page numbers.

If additional lines are needed for requisitioning items, obtain a Purchase Requisition Continuation Page (RC73A), and complete per the following instructions.

1. Purchase Requisition Number.
2. Enter the current date.

The remainder of the form is completed in the same manner as Blocks 13 through 21 of the Purchase Requisition form (RC73). When the RC73A has been completed, attach to the appropriate RC73 by stapling it to the extreme upper left-hand corner.

**Element 38 - Sole Source if Other Award is Infeasible**



February 22, 2007

Dominick Gatto, Director  
Program Management & Oversight  
U.S. Department of Transportation  
Federal Transit Administration  
200 West Adams Street, Suite 320  
Chicago, IL. 60606

**Subject: FTA Notification of OEM Material Procurement  
Grant: IL-05-0001**

Dear Mr. Gatto:

Metra hereby notifies the Federal Transit Administration Region-5 that the above referenced grant may contain funds for the procurement of Original Equipment Manufacturer (OEM) parts.

In the event that OEM parts are procured non-competitively, Metra certifies to the FTA that the procurement will comply with the requirements of FTA Circular 4220.1E and our documents will reflect that:

1. The Manufacturer is the only source of supply and,
2. The price paid is no higher than the price paid by like customers for the same product

Metra will maintain this documentation within each OEM procurement file as per federal file retention regulations related to these documents.

Sincerely,

Charles R. Cummins  
Division Director,  
Grant Administration

CRC/cc



## ***Memorandum***

To: Contract File

From: Name, Buyer  
Procurement Division

Subject: OEM Sole Source Certification  
Metra IFB No. \_\_\_\_\_  
Metra Purchase/Contract No. \_\_\_\_\_  
Metra Grant No. \_\_\_\_\_

The supplier is the only source for such items and that the prices for such materials are no higher than the prices paid for such items by like customers.

**Element 42 - Written Record of Procurement History**

**SUMMARY OF METRA PROCUREMENT**

Date Prepared: 8/12/04

Bid Expiration Date: 12/31/04

Funding Source: Capital  
FTA/IDOT *MEI*

IFB/RFP No.: 86277

Bid/Proposal  
Opening Date: 6/15/04

Public  
Notice Date: 5/18/04

Publication:  
Chicago Sun-Times

**SUBJECT:**

Contract No. K 43681      \$115,000.00  
Hill International, Inc.

Contract No. K 43867      \$600,000.00  
AECOM Consult, Inc.

~~Contract No. K 43864~~      \$300,000.00  
Cambridge Systematics, Inc.

Contract No. K 43865      \$250,000.00  
Cambridge Systematics, Inc.

"New Start" Planning Contracts to Support Alternative Analysis/Travel Modeling Documents/Financial Planning

**ACTION:**

Award a contract to each of the above four (4) firms.

These contracts are exempt from public bidding pursuant to NIRC Ordinance No. 94-1 dated September 20, 1994, Section 2.03, Paragraph (g) because the contracts are for the acquisition of professional services.

**BACKGROUND:**

These contracts cover professional services necessary to prepare project plans for the "New Start" Alternative Analysis Initiative projects within the Metra system.

**PROPOSAL TABULATION:**

Proposals were solicited from 439 firms. There are no proposal fees listed because the proposals were solicited in accordance with the Brooks Method of Evaluation, which does not permit fees to be submitted with the initial proposals. 16 proposals were received. The proposals were analyzed on the basis of the criteria included in the request for proposal. The following three (3) proposers ranked highest, and therefore, were selected to be interviewed for this contract.

**PROPOSER:**

Hill International, Inc.  
AECOM Consult, Inc.  
Cambridge Systematics, Inc.

**PROPOSAL ANALYSIS:**

Cambridge Systematics, Inc., the highest ranking firm for this contract, was chosen because their proposal and presentation demonstrated the expertise, experience, and other factors necessary to assure successful completion for the project. The General Development Department and the Executive Director have approved, in writing, this award for the professional services required.

Under this Request for Proposal, Metra stated its intention to award approximately four (4) contracts for this group of contracts, but reserved the right to award fewer or more. On the direction of the Executive Director, four (4) contracts were issued to the four (4) highest ranked firms. This award was approved by the Metra Board of Directors in their August 2004 Consent Agenda.

## Memorandum

To: Board of Directors

Date: August 6, 2004

From: Philip A. Pagano  
Executive Director



Subject: Contract Award Recommendations  
2nd Master Request For Proposal (RFP) No. 88381, New Start RFP No. 86277  
and Security Assessment Services RFP No. 08627

Metra published its second Master RFP No. 88381 in May, 2004 for professional engineering services for various projects with up to 25 contract awards. At this time, six (6) professional services contracts are being recommended for your approval. RFP No. 86277 was also published in May, 2004 soliciting proposals to award four (4) planning contracts for professional services to support alternative analysis for Metra's New Start projects. All four (4) contracts are being recommended for your approval at this time for the following assignments: 1) New Start - Alternatives Analysis Ridership/Travel Model Development & Forecasting 2) New Start - Supporting Documentation for FTA 3) New Start - Operating & Capital Financial Capacity Plans 4) New Start - Project Management Plan.

Due to the complexity and large number of projects included in RFP No. 88381 and RFP No. 86277, the same twofold process that was established to review the proposals received for the first Master RFP published earlier this year was also utilized. That process consisted of an Executive Committee and a Working Committee. The Executive Committee consisted of the same five individuals, as follows: Phil Pagano, Rick Tidwell, Vaughn Stoner, Bill Tupper and Paul Kisielius. The Working Committee consisted of individuals directly involved with the respective projects.

A total of 69 proposals were received in response to the categories for the six (6) proposed recommendations for RFP No. 88381 and sixteen (16) proposals were received in response to RFP No. 86277. The proposals were evaluated utilizing formal established Metra guidelines for selection of professional services.

The Working Committee members initially reviewed all the proposals submitted within their respective groups for technical responsiveness and responsibility and used a uniform, pre-determined scoring process to evaluate and score the proposals. After review, the Working Committee prepared a consensus ranking of the firms that was then forwarded to the Executive Committee. Prior to their evaluation, the Executive Committee ranked the complexity of workscope required for each of the proposed projects and then used the same uniform scoring

process to evaluate and score the proposals and determined the number of firms to be short-listed.

Nineteen (19) firms were short-listed for RFP No. 88381 and six (6) interviews were conducted for the New Start projects. Members of the Executive Committee, the Working Committee, the DBE Department and Procurement Department interviewed the short-listed firms.

After completing the interview evaluation process, the Executive Committee recommends the award of six (6) professional services contracts for RFP No. 88381 and four (4) professional services contracts for RFP No. 86277 as follows:

Firm	Work Assignment	Contract Amount
AECom	New Start - Ridership/Travel Model	\$ 600,000
Cambridge	New Start - Documentation	300,000
Cambridge	New Start - Financial	250,000
Hill	New Start - Project Mgmt. Plan	115,000
Earth Tech	Signal CM	631,238
Benesch	Construction Mgmt. - New Start SWS	894,114
CTE	Construction Mgmt. - New Start UP West	1,062,151
URS	PIDS Design	410,000
Turner	Construction Mgmt. - Orland Park - 153rd St.	425,000
Huff & Huff	Environmental & Wetland Mitigation	150,000

A professional services contract is also being recommended for your approval in response to RFP No. 08627 for Security Services. In May, 2004 Metra published an RFP seeking firms to provide assessment services. The proposals were evaluated utilizing formal established Metra guidelines for selection of professional services. Based upon that process, the award of a contract to IIT (EWA Information & Infrastructure Technologies, Inc.) is being recommended in an amount not to exceed \$500,000.

**SUMMARY OF METRA PROCUREMENT**

Date Prepared: 9/14/04

Proposal Expiration Date:  
12/31/05

Funding Source: Capital  
FTA/IDOT/METRA

IFB/RFP No.: 88381

Bid/Proposal  
Opening Date: 6/15/04

Public  
Notice Date: 5/18/04

Publication:  
Chicago Sun-Times

**SUBJECT:**

Contract No. K 44056	\$1,500,000.00	Contract No. K 44065	\$330,000.00
Alfred Benesch & Co.		McDonough Assoc., Inc.	
Contract No. K 44057	\$2,000,000.00	Contract No. K 44066	\$550,000.00
Edwards & Kelcey		TY Lin International	
Contract No. S 44058	\$150,000.00	Contract No. K 44067	\$440,000.00
Ecology & Environmental, Inc.		V3 Infrastructure Services	
Contract No. K 44059	\$250,000.00	Contract No. K 44068	\$330,000.00
LTK Engineering Services		American Consulting Engineers	
Contract No. K 44060	\$250,000.00	Contract No. K 44069	\$220,000.00
HOH Architects, Inc.		Primera Engineers, Ltd.	
Contract No. K 44061	\$650,000.00	Contract No. K 44070	\$330,000.00
Baker Engineering		Rubinos & Mesia Engineering	
Contract No. K 44062	\$440,000.00	Contract No. K 44071	\$220,000.00
MACTEC Engineering & Consulting		Shah Engineering, Inc.	
Contract No. K 44063	\$220,000.00	Contract No. K 44072	\$200,000.00
Shah Engineering, Inc.		Soodan & Associates, Inc.	
Contract No. K 44064	\$330,000.00	Contract No. K 44073	\$300,000.00
H.W. Lochner, Inc.		Christian-Roge & Associates, Inc.	
Contract No. K 44127	\$200,000.00	Contract No. K 44128	\$750,000.00
Delta Engineering, Inc.		STV, Inc.	

Provide Professional Engineering Services for Bridges, Stations, Parking Lots, Electrical and Mechanical and Other Various Projects Throughout the Metra System

**ACTION:**

Award a contract to each of the above 20 firms.

These contracts are exempt from public bidding pursuant to NIRC Ordinance No. 94-1 dated September 20, 1994, Section 2.03, Paragraph (g) because the contracts are for the acquisition of professional services.

**BACKGROUND:**

These contracts cover professional services necessary to prepare plans, specifications and provide construction management services for the rehabilitation and construction of various projects within the Metra system. The issuance of 20 contracts is required because of the volume of work that is anticipated.

**PROPOSAL TABULATION:**

Proposals were solicited from 439 firms. There are no proposal fees listed because the proposals were solicited in accordance with the Brooks Method of Evaluation, which does not permit fees to be submitted with the initial proposals. Proposals were received from 139 firms. The proposals were analyzed on the basis of the criteria included in the request for proposal. The following 20 proposers ranked highest, and therefore, were selected to be interviewed for this contract.

**PROPOSER:**

Alfred Benesch & Co.  
Edwards & Kelcey  
Ecology & Environmental, Inc.  
LTK Engineering Services  
HOH Architects, Inc.  
Baker Engineering  
MACTEC Engineering & Consulting  
Shah Engineering, Inc.  
H.W. Lochner, Inc.  
McDonough Assoc., Inc.  
TY Lin International  
V3 Infrastructure Services  
American Consulting Engineers  
Primera Engineers, Ltd.  
Rubinos & Mesia Engineering  
Shah Engineering, Inc.  
Soodan & Associates, Inc.  
Christian-Roge & Assoc., Inc.  
Delta Engineering, Inc.  
STV, Inc.

**PROPOSAL ANALYSIS:**

Alfred Benesch & Co., the highest ranking firm for this contract, was chosen because their proposal and presentation demonstrated the expertise, experience, and other factors necessary to assure successful completion for the project. This award was approved by the Metra Board of Directors in their September 2004 Consent Agenda.

Under this Request for Proposal, Metra stated its intention to award up to 26 contracts for this group of contracts, but reserved the right to award fewer or more. On the direction of the Executive Director, 20 contracts were issued to the 20 highest ranked firms.

## Memorandum

Date: September 13, 2004

To: Board of Directors

From: Philip A. Pagano  
Executive Director

A handwritten signature in black ink, appearing to read 'PAGANO', is written over the printed name of Philip A. Pagano.

Subject: Final Contract Award Recommendations  
2nd Master Request For Proposal (RFP) No. 88381

At the August 13, 2004 Board Meeting, six (6) professional services contract recommendations for Master RFP No. 88381 were presented for your consideration as part of the Consent Agenda. The remaining twenty (20) contract awards are being recommended for your approval at this time.

This recommendation covers Engineering and Technical Services project awards. A total of 56 proposals were received in response to the Engineering category which consisted of Environmental Inspection and Testing Services, Project Administration/Management Support blanket, Design of 22 bridges on the UP North Line, and Mechanical/Electrical blankets. A total of 177 proposals were received in response to the Technical Services category which consisted of New Start Construction Management blankets, Capital Station & Parking Construction Management blankets, So. Chicago Construction Management blanket, Station Design blanket, Parking Design blanket, and Project Administration for ADA & Sign Program. The proposals were evaluated utilizing formal established Metra guidelines for selection of professional services. The same process (previously described) that consisted of an Executive Committee and a Working Committee to review the proposals received was utilized.

A total of 58 firms were short-listed and interviewed by members of the Executive Committee, the Working Committee, and the Procurement Department. Upon completion of the interview process, the Executive Committee recommends the award of the following twenty (20) professional services contracts for RFP No. 88381.

Firm	Work Assignment	Contract Amount
Lochner	New Start CM Blanket	\$ 330,000
MACTEC	New Start CM Blanket	440,000
McDonough	New Start CM Blanket	330,000
Shah	New Start CM Blanket	220,000
TY Lin	New Start CM Blanket	550,000
V3 Infrastructure Svcs.	New Start CM Blanket	440,000
American Consulting Engineers	Capital Station/Pkng. CM Blanket	330,000
Rubinos & Mesia	Capital Station/Pkng. CM Blanket	330,000
Primera	Capital Station/Pkng. CM Blanket	220,000
Shah	Capital Station/Pkng. CM Blanket	220,000
Baker	CM - So. Chicago Branch Stations	650,000
Soodan	Station Design Blanket	200,000
Christian Roge	Parking Design Blanket	300,000
Delta	Project Admin. ADA/Signs	200,000
Edwards & Kelcey	Design - UP N Line Bridges	2,000,000
Benesch	Design - UP N Line Bridges	1,500,000
Ecology & Environmental	Environmental Inspection Blanket	150,000
STV	Project Management Blanket	750,000
HOH	Mechanical/Electrical Blanket	250,000
LTK	Mechanical/Electrical Blanket	250,000

## SUMMARY OF METRA PROCUREMENT

<b>Meeting Date:</b> N/A		<b>Date Prepared:</b> 9/29/05	
<b>Exp. Date:</b> N/A	<b>Funding Source:</b> Capital Metra		<b>IFB/RFP No.:</b> 35951
<b>BID\PROPOSAL Opening Date:</b> N/A	<b>Public Notice Date:</b> N/A	<b>Publication:</b> N/A	

### SUBJECT:

Purchase Order No. K56284                      \$236,280.00  
Electro-Motive Diesel, Inc.  
Locomotive Blast Gate Kits

### ACTION:

Award a purchase order to Electro-Motive Diesel, Inc. This award was made on a sole source basis.

This is exempt from public bidding pursuant to Metra Ordinance No. NIRC 94-1, dated September 20, 1994, Section 2.03, Paragraph ( c ), which covers goods or services economically procurable from only one source.

### BACKGROUND:

The subject purchase order covers the procurement of locomotive blast gate kits specifically designed for Metra locomotives.

The drawings and design details for these locomotive blast gate kits are confidential and proprietary of Electro-Motive Diesel, Inc. and cannot be used for competitive bidding purposes. Suppliers do not have access to the OEM's drawings or specifications.

Electro-Motive Diesel, Inc. sells these parts directly to the end-user and does not use distributors. Therefore, this is the only source for the above material.

**BOARD SUMMARY OF METRA PROCUREMENT****Meeting Date:** N/A**Date Prepared:** 6/19/06**Exp. Date:** 8/22/06**Funding Source:** Operating**IFB/RFP No.:** 10222**Bid Opening Date:** 2/21/06**Public Notice Date:** 1/10/06**Publication:**  
Chicago Sun-Times**SUBJECT:**

Contract No. S68026                      \$375,000.00  
Alcohol & Drug Testing Services, LLC  
Drug and Alcohol Testing Collection Services

**ACTION:**

Award a contract to Alcohol & Drug Testing Services, LLC.  
This contract is exempt from public bidding pursuant to Metra Ordinance No. 94 -1, dated September 20, 1994, Section 2.03 Paragraph (g) because the contract is for the acquisition of professional services, the quality and reliability of which depend in substantial part upon the individual skills, training, experience, or ability of the person or entity rendering such services.

**BACKGROUND:**

This contract covers professional services necessary to manage and administer, as required by the Human Resources Department, the following aspects of the Drug and Alcohol Testing Program for covered and non-covered employees: all random, reasonable suspicion, cause, and follow-up drug and alcohol testing.

**PROPOSAL TABULATION:**

Proposals were solicited from 123 firms. Proposals were received from four (4) firms. The proposals were analyzed on the basis of the criteria included in the request for proposal. The following three (3) firms ranked highest and, therefore, were selected to be interviewed:

**PROPOSER**

Alcohol & Drug Testing Services, LLC  
Acosta Medical Testing Corp.  
Advanced Occupational Medical Specialists

(Continued on next page)

**BID ANALYSIS:**

Alcohol & Drug Testing Services, LLC was chosen because their proposal and presentation demonstrated the expertise, experience and other factors necessary to assure successful completion of the project. The Human Resources Department has approved, in writing, this award for the professional services required.

**Other Matters - Internal Controls - Separation of Duties**



## ***Memorandum***

To: Contract File

From: Fred Smalarz, Director  
Professional Services/Contracts

Subject: Scope/Task Assignment/Cost Review  
Patrick Engineering Inc.  
Metra Contract No. K68499  
Task No. 1 - \$500,000.00

The estimated hours and rates have been reviewed and appear to be fair and reasonable. The agreed upon tasks are within the scope of the subject contract.