



Procurement Manual

2018

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I. Introduction

This Adirondack / Glens Falls Transportation Council (A/GFTC) Procurement Manual contains guidelines that detail the policies and instructions regarding the use, awarding, monitoring and reporting of procurement contracts with A/GFTC. This Manual is intended to be in full compliance with the Lake Champlain - Lake George Regional Planning Board (LC-LGRP), New York State General Municipal Law, Federal Highway Administration (FHWA) and Federal Transit Administration (FTA) procurement requirements. The specific objectives of this manual are as follows:

1. To serve as a reference guide
2. To specify general and specific organizational procedures
3. To define staff roles and responsibilities.
4. To document policy and compliance with applicable governmental requirements including all applicable elements of the following:
 - a) New York State General Municipal Law,
 - b) NYSDOT Procurement Guidance Checklist,
 - c) LC-LGRP and Warren County purchasing policies,
 - d) Omnibus Procurement Act requirements and the U.S. Department of Transportation Federal Transit Administration (FTA) Circular 4220.1f (or the latest revision) "Third Party Contracting Guidelines."
 - e) The FTA's Best Practices Procurement Manual.

In the event of differing policies among the various municipalities involved, A/GFTC will refer to federal guidance and procedures as the standard to be followed. As noted in the separate Host Agency MOU between A/GFTC and LC-LGRP, LC-LGRP has the right to refuse first-instance funding of any purchase or contract that causes burdensome cash flow implications to the Host.

II. Procurement Policy

A. Guiding Principle: Procurement is the process by which A/GFTC acquires the goods and services necessary to fulfill its mission. A/GFTC, (as a department of the Lake Champlain - Lake George Regional Planning Board) shall acquire necessary goods and services in the most cost-effective manner. It is the intent that this manual shall comply with all applicable state and federal laws so that the manual shall be superseded by those laws where they are applicable. The selection of Business Partners, Contractors and Vendors shall be driven by a determination of what is in the best interests of A/GFTC, the LC-LGRP, and the public for whose benefit A/GFTC was established. A/GFTC will promote full and open competition in procurement by establishing clear specifications and adhering to a selection process that adheres to established criterion for the procurement, is transparent to public scrutiny, and is free from any improper influence.

B. Ethics: Committee Members and employees of A/GFTC who have any financial interest in the outcome of procurement are expressly prohibited from making any decision about the procurement and are prohibited from disclosing confidential information. No members or staff are permitted to use, or attempt to use, his or her official position to secure unwarranted privileges or exemptions for themselves or others and shall not give any reasonable basis for the impression that any person can improperly influence them or unduly enjoy their favor in the performance of official duties, or that they are affected by the kinship, rank, position or influence of any party or person.

III. Responsibilities

Detailed below are the various procurement responsibilities of the A/GFTC, the LC-LGRP, and contractors. It is the responsibility of the lead A/GFTC staff member assigned by the Transportation Planning Director to administer any specific procurement. Determining “contractor responsibility” and bid responsiveness will fall to the Transportation Planning Director in consultation with any staff involved in the process. This determination shall be made before a contract award recommendation is presented and will be based on criteria specified in the bid document.

A. A/GFTC Planning Committee

The A/GFTC Planning Committee shall be consulted on:

1. Review and approval of these procurement guidelines and supporting procedures.
2. Award of contracts that:
 - a) exceed \$100,000, or
 - b) are single bid or sole source awards and exceed \$40,000, or
 - c) are the result of a Request for Proposals where the reasonably anticipated annual value of the contract is expected to exceed \$100,000;
3. Approval of cumulative contracting change orders resulting in additional payments on Council-awarded contracts that are more than 20% of the awarded contract value or \$10,000, whichever is smaller.
4. Annual review of all multi-year term contracts for professional services of fixed or indefinite value that are reasonably expected to exceed \$100,000 in annual value.

B. Transportation Planning Director

The Transportation Planning Director shall be responsible for:

1. Development of, implementation of and compliance with procurement policy and procedures.
2. Administering all procurement activities including supplies, equipment, furnishings, grant related procurements and professional services.
3. Ensuring that purchases comply with all applicable state and local laws and regulations.
4. Performing cost and product comparisons, meeting with vendors, negotiating prices, and making timely purchases to ensure efficient and steady work processes.
5. Reviewing procurements and purchase contracts for compliance with FHWA and FTA requirements.
6. Consulting with A/GFTC’s Planning Committee for input and recommendations on major procurement items as deemed appropriate.
7. Within approved budget and appropriated funding limits, doing all things necessary and required to acquire materials, services and equipment needed by A/GFTC.
8. Formulating contract document forms that comply with applicable state and federal requirements.
9. Approving contract change orders that do not require Council approval.
10. Formatting payment vouchers for processing by LC-LGRP.
11. Consulting with LC-LGRP counsel for contract review, preparation and related procurement issues as needed.
12. Placing official notices and advertisements for formal procurements in appropriate publications, and soliciting on a national basis to encourage fair and open competition.

13. Maintaining bidders' lists and ensures that bid packages and addenda are sent to prospective bidders who have expressed interest in an RFP that is currently pending.
14. Conducting bid openings.
15. Maintaining accurate and complete procurement files.
16. Complying with requirements for utilizing disadvantaged business enterprises (DBEs) for supplies and services.
17. Maintaining contracts/bid packets on file.
18. Implementation of procedures to secure taxpayer identification numbers, sales tax registration, and enforcement procedures.
19. Compliance with State Finance Law sections 139-j and 139-k by serving as the A/GFTC point of contact on all procurements, warning Contractors and Vendors about the prohibition against improper contacts, and documenting any real or suspected impermissible contacts for transmittal to the LC-LGRP Ethics Officer.

C. LC-LGRP

The LC-LGRP shall be responsible for:

1. First-instance funding of A/GFTC expenses, purchases and consultant bills by way of processing payment vouchers submitted by A/GFTC.
2. Entering into contracts on behalf of A/GFTC that comply with applicable state and federal requirements.
3. Reviewing procurement and contract documents for form.
4. Advising staff on changes in laws and requirements that impact procurement practices.
5. Availing existing Counsel to advising the Transportation Planning Director on legal matters, including protest procedures.
6. Maintaining an original of contracts and contract change orders on file.
7. Maintaining the current commercial language clauses to satisfy federal and state law procurement requirements.
8. Serving as Ethics Officer for the purpose of assuring compliance with the prohibition against improper contacts during the procurement process (State Finance Law section 139-j).
9. Conducting audits of the procurement function, as required.
10. Examining, reviewing and settling all vendor claims with the A/GFTC and preparing reports required by Public Authority Law Section 2879 and the Economic Development Law.

D. Contractor Purchases on Behalf of A/GFTC

AGFTC's Procurement Manual and procurement rules apply only to purchases by contractors that are made on behalf of A/GFTC. Thus, contractors should secure any and all goods and services that they need to do their work subject only to those requirements set forth in their contract. From time to time, it may be in the best interest of efficiency and effectiveness to have a contractor purchase items on behalf of A/GFTC. The following guidance is offered:

1. Any purchase on behalf of A/GFTC should, to the extent practical, be included in the contractor's proposal or budget.
2. All materials purchased must be necessary for performance of the specific contract.
3. All materials with a life beyond the expiration of the contract must be inventoried and returned to A/GFTC upon the close of the contract in good condition, reasonable wear and tear accepted.

4. A/GFTC procurement guidelines should be used. State contracts that meet federal requirements may be used if possible.
5. All purchases in excess of \$5,000 must be explicitly approved by A/GFTC.

IV. Responsibilities of Contractors and Vendors

A/GFTC values good working relationships with Contractors and Vendors. Contractors and Vendors who desire to do business with A/GFTC through the submission of bids or proposals in response to A/GFTC procurement requests agree to the terms and conditions set forth in the published procurement documents. Contractors and Vendors may express their interest in doing business with A/GFTC by registering such interest with the Transportation Planning Director, and, unless a business relationship is created, renewing such registration on an annual basis. Neither registration, nor the acceptance of a bid or a proposal constitutes a determination by A/GFTC as to the responsibility or qualifications of any Contractor or Vendor. Special attention should be given to the requirements for open competition, the prohibitions on collusion and procurement lobbying (as elsewhere defined), and the requirement for an open and transparent process. Upon the selection of a Contractor or Vendor, A/GFTC requires adherence to contract terms, including those set forth in the contract specifications and the proposal or bid.

V. General Rules Applicable To All Procurements

A. Procurement File: Documentation appropriate to amount and type of procurement shall be maintained for each procurement or contract. This may include a procurement file created by the Transportation Planning Director. Such a file will include a copy of the solicitation, a list of those requesting the solicitation, a list of those responding to the solicitation, copies of the price quotes/offers obtained, a memo evaluating the offering and cost suitability, certification that the vendor is not on the Excluded Parties list, a copy of the contract, rationale for method of procurement, selection of contract type, reasons for contractor selection or rejection, basis for contract price, back up for liquidated damage or incentive clauses, on-going contract correspondence, and contract close-out documentation [to include a record of payments made by contractors to DBE subcontractors] as provided for and described in the FTA Best Practices Procurement Manual.

B. Contracting Requirements:

1. Types of Contracts: Contracts at A/GFTC will generally fall into one of four categories; Consultant Services for a distinct project, Recurring Professional Planning and Engineering Services (Term Agreements), Professional Services for Technology Support, and Purchases (supplies, hardware, furnishings). Contracts may be written for either a fixed price (usually definite quantity or single project), cost reimbursement, time and materials, labor hour contracts, or cost plus fee (fees may be either a fixed or floating amount). The type of fee arrangement will be spelled out in the contract schedules.
2. Contract Forms: The LC-LGRP will make contract forms available for formatting by A/GFTC. These contract forms will address (1) liability and the risk of loss associated with the purchase or the work, (2) required state and federal clauses, (3) procurement contract provisions, including termination provisions relating to violation of these provisions and the applicable laws, and (4) reasonable contract provisions that are desirable for business reasons.

3. **Required Provisions:** As a recipient of both State and Federal funds, contracting at A/GFTC is contingent upon compliance with various state and federal provisions that shall be incorporated by reference into applicable contracts. These required provisions are set forth in documents entitled "Appendix A" for state provisions and "Appendix B" for federal provisions. Where required, the applicable appendix or appendices shall be incorporated by reference into all written procurement contracts.

C. Special Procedures for Procuring Services from a Professional Firm: A/GFTC will often use consultant services because (1) there is a need for expert services of limited duration to assist in the ongoing mission of the agency, (2) there is a task to be performed to support the mission of the agency for which staff does not have the required technical capability, (3) there is a requirement for work and the staff, although technically capable of performing the work, is not available in the time frame required to do the work, or (4) there is a requirement for independent technical services. To the extent practical, consulting services will be limited to expert services and associated expenses that are generated by consultant activities that are beyond A/GFTC staff capabilities. Tasks such as data collection, although part of the task for which a consultant is engaged, will be performed by staff whenever feasible. Under certain conditions, the staff may enter into a task-order agreement with professional service firms for a limited duration in time. Generally, this will normally be up to two years with options for renewal. Under such an agreement a specific firm or firms is selected to perform services as the need for them arises during the term of the agreement. This type of agreement is most suited to short-term planning and conceptual design services.

1. **Guidelines governing procurement:** The requirements of these procurement guidelines govern the selection of services and consultants. The actual selection of consultants will be made through action by the Planning Committee only where the estimated value of the contract is \$100,000 or more; all other selections will be made by the Steering and Selection Committee assembled by A/GFTC to oversee that particular project.
2. **Procedures for consultant solicitation and selection.** The requirements for publication in the New York State Contract Reporter will be followed. The Request for Proposal (RFP) process will be followed. The RFP will include a precise description of the work to be performed and criteria for evaluating proposals including the relative weight to be given each factor. Each proposal must list the hours of work by job category, direct labor, overhead rates and direct expenses. Interviews may be conducted with some or all of the consultants who submit proposals in accordance with the selection procedure. For each consultant engagement of \$20,000.00 or more, a selection committee consisting of at least three impartial committee members will review and score the proposals.
3. **Procurement Files:** For each consultant contract, a procurement file will be created. This file will include a copy of the RFP, a list of those requesting the RFP, a list of those responding to the RFP, copies of the proposals submitted, a memo evaluating the capability and cost suitability of the proposal, a copy of the consultant contract, the rationale for the method of procurement, selection of contract type, reasons for contractor selection or rejection, and basis for contract price.
4. **Sole Source Exceptions:** Procurement of any goods or services by noncompetitive proposals may be used only when the award of a contract is not feasible under small purchase procedures, sealed bids, or competitive proposals and at least one of the following circumstances applies: (1) The service is available only from a single source; (2) Any urgency for the requirement will not permit a delay resulting from competitive solicitation; (3) FTA authorizes noncompetitive negotiations; (4) After solicitation of a

number of sources, competition is determined inadequate; or (5) The goods or services are available from a public entity that derive no profit from the sale as described in Article VII (G) (1). In any sole source procurement 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, with the objective being that the amount charges represents “fair and reasonable” compensation for the desired goods and/or services.

5. **Continuing Contracts:** Any multi-year agreements will be reviewed annually. A/GFTC may enter into contracts with optional renewals; those contracts will not exceed a term of five (5) years unless there is a mid-term assessment as to whether the amounts being charged remain both fair and reasonable.

- D. **Disadvantaged Business Enterprise (DBE) participation:** A/GFTC actively encourages DBE participation by affording a competitive advantage during the proposal evaluation process to those consultant proposals that demonstrate a meaningful and relevant level of proposed DBE contribution towards the execution of the project.

VI. Procurement Planning and Types of Contracting Methods

A. Procurement Methods

Consistent with GGFT's Procurement Manual, this manual defines the following five procurement methods as those available to A/GFTC, although two (Formal Sealed Bids / Invitation for Bids and Non-competitive negotiations) will be used infrequently if at all. Four of the five procurement methods are defined in FTA's Circular 4220 1f. Open competition among qualified bidders is encouraged. A/GFTC will practice the following procurement methods or acquire items from state or federal procurement contracts.

1. **Micro Purchases:** Purchases under \$1,000 require one fair and reasonable price. Micro purchases don't require multiple competitive quotes if the price to be paid is determined to be fair and reasonable. The procurement file should contain supporting documentation for the conclusion of a fair and reasonable price.
2. **Small purchases:** Rather than identify distinctions between mini and small purchases, A/GFTC will apply small purchase procedures for the procurement of goods and services ranging in value from \$1,000 to \$19,999. Those procedures require obtaining competition from an adequate number (three or more preferred) of qualified and responsible offerors in the form of written quotes. Selection of the lowest bidder is not required if compelling rationale, such as past performance, is documented in support of that decision.
3. **Formal Sealed Bids or Invitation for Bids (IFB):** The IFB method of procurement is employed for acquisitions over \$20,000 when there is:
 - a. A complete, adequate, and realistic specification or purchase description available;
 - b. Two or more responsible bidders are willing and able to compete effectively for the business;
 - c. 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
 - d. No discussion with bidders is needed.

Sealed bidding is the preferred method for any project valued at \$20,000 or more

with a clearly defined scope of work with little potential variation in either approach or scope of services.

4. **Requests for Proposals (RFP):** The competitive proposal method is intended to permit competition on quality and other factors as well as on price for purchases or contracts anticipated to cost \$20,000 or more. The competitive proposal method has many common attributes with the sealed bidding process:
 - a. Like an Invitation for Bids, the Request for Proposals is a written document published to the "world", soliciting the submission of offers in response to the Request.
 - b. The objective is to promote full and open competition.
 - c. The terms and conditions of the solicitation and the resulting contract are spelled out in the Request for Proposals (RFP).
 - d. If determined necessary, an opportunity is provided (through a pre-bid or pre-proposal conference) for prospective offerors to meet with procuring agency officials to get answers to questions prior to the submission of the bids or initial proposals.
 - e. A reasonable amount of time is provided prospective offerors in which to prepare and submit their offers.
 - f. Rules will be provided that specify treatment of offers that are submitted late.
 - g. Award will only be made to an offeror determined to be "responsible."

The competitive proposal procurement method (RFP) differs from the sealed bidding process in that:

- a. A complete, adequate and realistic specification or purchase description allowing for competition primarily on the basis of price alone may not be available.
 - b. The contract award amount, whether a firm-fixed price or some type of cost reimbursement contract, can only be determined on the basis of costs of the contractor derived from a negotiation process.
 - c. Discussions or negotiations may be needed to address technical requirements as well as proposed cost or price aspects of the offeror's proposal. Discussions may be conducted with one or more offerors who have submitted proposals.
 - d. A range of proposed approaches or elements of scopes of services may be present among differing offerors.
 - e. An opportunity may be given to revise proposals and to submit a final proposal at the completion of the discussion phase of the process.
5. **"Noncompetitive negotiations"** –This formal method of procurement is used infrequently and is the method of procurement used for sole and single source contracts. Sole source procurements are accomplished through solicitation or acceptance of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate. A contract amendment or change order that is not within the scope of the original contract is considered a sole source procurement that must comply with this subparagraph. 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 urgency for the requirement will not permit a delay resulting from competitive solicitation;
- c. FTA authorizes noncompetitive negotiations;
- d. After solicitation of a number of sources, competition is determined inadequate; or
- e. The Board chooses to award a sole source contract not using federal funds.

A cost analysis verifying the proposed cost data, the projections of the data, and the evaluation of the specific elements of costs and profit is required. Before entering into a sole source procurement utilizing federal funds, A/GFTC must certify in writing to FTA that (a) such manufacturer or supplier is the only source for such item; and (b) that the price of such item is no higher than the price paid for such item by like customers.

B. Types of Contracts

Procurement is accomplished by payment voucher or contract. Contracts may be written for either a fixed price (usually definite quantity or single project), cost reimbursement, time and materials, labor hour contracts, or cost plus fee (fees may be either a fixed or floating amount). The type of fee arrangement will be spelled out in the contract schedules. Contracts at A/GFTC will generally fall into one of four categories:

- a) Consultant Services for a distinct project - professional services procured for the execution of a unique and distinct project
- b) Recurring Professional Planning and Engineering Services (Term Agreements) - procurement of professional planning and engineering services to assist A/GFTC municipalities and A/GFTC staff on special projects as needed, with the value of services provided as part of each distinct project not to exceed \$20,000
- c) Professional Services for Technology Support - includes website maintenance and development and information technology support
- d) Purchases (supplies, hardware, furnishings).

C. Restrictions on Conflicts and Lobbying

Consistent with longstanding ethics rules contained in the Public Officers' Law, restrictions on lobbying and A/GFTC policy, staff engaged in the procurement process shall ensure that the procurement process operates in a way that it is free of conflicts of interest, undue influence, and with qualified contractors in compliance with federal and New York law.

VII. Procurement Procedures

All procurement activity at A/GFTC shall be channeled through the Transportation Planning Director or designated staff. These procurement procedures provide the detailed instructions for staff to follow, when conducting procurement. On federally funded projects, the Federal Transit Administration requires procurement protest procedures. Modifications, additions, and deletions are made to procedures to comply with changes in laws, regulations, and LC-LGRP and A/GFTC policies.

PROCEDURE 1 - Petty Cash / Staples Card

PROCEDURE 2 - Micro Purchases (under \$1,000)

PROCEDURE 3 - Small Purchases (\$1,000 - \$19,999)

PROCEDURE 4 - Sealed Bid/Invitation for Bids (IFB including all procurements for \$20,000 or more where award will go to the lowest responsible and responsive bidder)

PROCEDURE 5 - Request for Proposals (RFP)/Competitive Negotiations

PROCEDURE 6 - Sole or Single Source (Non-Competitive Negotiations)

A. PROCEDURE 1 - Procedure 1 – Petty Cash / Staples card

Petty cash funds are available to A/GFTC staff. Staff is permitted to use these funds for purchases up to \$200.00. Additionally, a credit card for A/GFTC at Staples stores has been established by LC-LGRP. The credit line maximum is set at \$200.00. Usage of the Staples card is limited to supplies and hardware that do not require professional installation. Petty cash usage will be monitored and approved by the Transportation Planning Director and audited annually. Should funds on hand be reduced to an amount that is less than \$50.00, a request to recapitalize that balance (not to exceed a total of \$400.00) will be initiated with LC-LGRP.

B. PROCEDURE 2 - Micro Purchases

1. **Requirements:** Purchases under \$1,000 require just one fair and reasonable price. Micro-purchases may be made without obtaining competitive quotations given documentation or support that the price to be paid is fair and reasonable. This support may be documentation that the purchaser shopped multiple locations or obtained verbal quotes that show a purchase price that was reasonable - generally the lowest price for goods that are ready for immediate delivery.
2. **Payment voucher:** A payment voucher will be generated by A/GFTC staff and signed by the Transportation Planning Director before forwarding to LC-LGRP along with the original invoice for payment. A/GFTC staff will verify consistency between the invoice and the payment voucher.
3. **Price Competition:** Assuring adequate price competition for various types of contracts shall be facilitated by way of documentation of prices or rates associated with similar efforts previously undertaken by A/GFTC or those generally charged for such efforts.
4. **Procedure:** Micro purchases should follow this format:
 - a. Confirm needs and ensure funds are available
 - b. Obtain a price or quotation from a vendor/supplier
 - c. Make determination that price is fair and reasonable
 - d. Format and forward payment voucher to LC-LGRP upon receipt of invoice
5. **Price Splitting:** Purchases shall be equitably distributed among qualified suppliers and purchases shall not be split to avoid the requirements of competition for purchases above the micro purchase threshold.

C. **PROCEDURE 3 - Small Purchases (\$1,000 to \$19,999)**

1. **Requirements:** Small purchase procedures are those relatively simple, informal procurement methods for procuring services, supplies or other property costing less than \$20,000.00. The solicitation may be verbal or written, but the resulting bids, quotes, or proposals must be written. Advertising is not required. At least three firms must be considered or solicited unless it can be shown that (1) there are only two vendors/contractors available, or (2) the items to be procured are available under New York State OGS contract.
2. **Payment voucher:** A payment voucher will be generated by A/GFTC staff and signed by the Transportation Planning Director before forwarding to LC-LGRP along with the original invoice for payment. A/GFTC staff will verify consistency between the invoice and the payment voucher.
3. **Price Competition:** Unless otherwise indicated, at least two (2) bids/quotes/proposals must be obtained, with three being preferred, Documentation in the procurement file explaining why less than three bids/quotes/proposals were obtained is required. Competing bids will not be disclosed between offerors prior to selection. In the event that such information is learned or disclosed, the procurement process will be re-initiated.
4. **Use of State and Federal GSA Contracts:** A/GFTC is eligible to purchase items on the competitively-bid State Contract without soliciting bids or proposals up to the \$20,000.00 small purchase limit. The availability of the item and the urgency of the need are considered in conjunction with the price. New York State Office of General Services (OGS) contract numbers shall be included on payment vouchers as a reference number. A/GFTC may also utilize federal GSA contract procurement in a similar manner.

D. **PROCEDURE 4 - Sealed Bid/Invitation for Bids (IFB) - Fixed specifications, \$20,000 or more**

1. **Requirements:** This procurement method may be employed when there is: (a) a complete, adequate, and realistic specification or purchase description; (b) two or more responsible bidders are willing and able to compete; (c) the procurement lends itself to a firm fixed price contract; (d) the selection can be made primarily on the basis of price; (e) no discussion with bidders is needed after receipt of offers. In the more common occurrence that some variation may be permissible or encouraged within the proposed approach or scope of services, or if the selection cannot be made primarily on the basis of price, the RFP process (Procedure 5) will be used.
 - a. **Bidding Requirements:** Publication of an IFB is required. Publication in the NYS Contract Reporter, which has a national presence, is required, along with publication in at least one other Official Publication (the Post-Star is the Official Publication of the LC-LGRP for the A/GFTC region). In addition to the publication in the State Contract Reporter, notifications of the bid opportunity will be made to other entities with a national audience, possibly including but not limited to specific trade organizations such as the American Planning Association and bid proposal clearing houses such as <http://www.governmentbids.com> and <http://findrfp.com/> . Solicitations must include any vendor/contractor that responds to publication, and must include any vendor/contractor that has requested notification of such procurements. In addition, employees are encouraged to provide the solicitation to any prospective

vendor/contractor. Both the Invitation for Bids and the bids are required to be in writing. Bid bonds may be required. Multiple bids/proposals must be obtained from an adequate number of qualified sources (at least two, three preferred).

- b. **Bids:** Written bids/quotes/proposals are required. Sealed bids are to be identified as such by the bidder and shall be retained, unopened, until the date and time designated for bid opening. At least two (2) responsive bids/proposals must be obtained. Sealed bid opening shall be public where Transportation Planning Director shall read the bids aloud and prepare a bid summary and certify the results. Early opening or disclosure of bids before the deadline is expressly forbidden.
 - c. **Bid Acceptance and Contracts:** Submitted bids will be reviewed by A/GFTC staff and selected impartial committee members to assure responsiveness. The lowest responsive bid will be selected by staff or, in the case of an potential award exceeding \$100,000 be recommended for approval to the A/GFTC Planning Committee. Once approved, a contract between LC-LGRP and the bidder, including applicable State and Federal clauses, will be executed.
2. **Payment voucher:** A payment voucher will be generated by A/GFTC staff and signed by the Transportation Planning Director before forwarding to LC-LGRP along with the original invoice for payment. A/GFTC staff will verify consistency between the invoice and the payment voucher.
 3. **Price Competition:** Multiple written bids/proposals are required. Bids must come from responsible bidders and be responsive. For contracting extensive state and federal provisions apply and the insurance requirements are more stringent.
 4. **Preparation of Bid Package:** The IFB procurement documents will generally be organized into five (5) sections: 1) Information for Bidders, 2) Required Forms, 3) the agreement with Required Contract Clauses, 4) the technical specifications/scope of work, and 5) bid.
 5. **Procurement Advertising For Bids:** The Transportation Planning Director will secure advertising for all invitations for bid. At minimum, A/GFTC will publish legal notices for the bid in the Post-Star and the New York State Contract Reporter. Affidavits of publication are provided by newspapers, which are proofed and retained in the procurement file. The "Notice to Bidders" is also sent to those firms with a known expertise in the area of interest and those who have been asked to be placed on the bidders' list. The "Notice to Bidders" must appear in the official newspapers in advance of the stipulated due date for proposals. The New York State Contract Reporter stipulates minimum days. Affidavits, certificates, insurance and bond requirements, which will be used to bind the procurement, are provided to all bidders as inclusions in the bid package.
 6. **Pre-Bid Conference:** When the proposed contract is for large purchases or construction, a pre-bid conference is normally held about two (2) weeks before the bid opening. This is an opportunity for prospective bidders to ask questions about the plans, the specifications and the commercial language requirements.
 7. **Addenda:** Changes in the procurement as a result of the pre-bid conference or that are initiated at the discretion of the GGFT will be provided to all prospective bidders in the form of Addenda.
 8. **Bid Opening:** Bid openings are open to the public. On the advertised day and at the scheduled time, the bids will be opened and read aloud, stating the name of the bidder and the amount of the bid. The amount of each bid along with the name of the bidder will be entered on a bid tabulation sheet that will be signed and certified. Bids that are received after the scheduled time of bid opening must be returned to the bidders unopened. Observers at the bid opening should be advised to take notes if they want an instant record of the proceedings, and to so state if they want to be provided with an official copy of the bid tabulation. No copies of the bid tabulation are provided at the bid opening, nor can any comments be made about the

probability of award. If requested, an observer is permitted to look at bid(s), but is not permitted to handle bids at the time of bid opening.

- 9. Contract Award:** The following measures will be taken to support any contract award in response to an IFB.
- a. Bids reviewed: After the bid opening, A/GFTC staff and select impartial committee members review the bid documents to determine the lowest responsive and responsible bidder. Based upon that group's recommendation, the Transportation Planning Director will determine the responsibility.
 - b. Non-responsive and non-responsible bids shall be rejected. Late bids shall be returned to the bidder unopened. A/GFTC retains the right to reject any or all bids.
 - c. Withdrawals: The low bidder with the concurrence of the Transportation Planning Director may be allowed to withdraw provided the bidder can identify and demonstrate an error in the bid.
 - d. Award: Award will be made by the Director of Purchasing of any contract valued at less than \$100,000 based upon the lowest responsive bid from a responsible bidder. For any contract exceeding \$100,000, recommendation from the Transportation Planning Director to award to the lowest responsible and responsive bidder. will be made for the A/GFTC Planning Committee.
 - e. Notification: The apparent low bidder will be notified in writing of the intent to award, subject to the bidder's ability to meet the requirements of the IFB including contract requirements.
 - f. Contract execution: Before the contractor can begin work, it must comply with the bid requirements by completing, executing and returning the contract that was included with the IFB.
 - g. Notice to Proceed: After the contract has been formally awarded by A/GFTC and signed and returned with all necessary documentation, contractor is notified by the A/GFTC staff in writing, signed, to submit the signed agreement original(s) together with any commercial requirements (e.g., bonds, insurance certificates).

E. PROCEDURE 5 - Request for Proposals (RFP)/Competitive Negotiations

- 1. Requirements (defined):** The RFP method of procurement will be used for the acquisition of services costing \$20,000 or more and may be used for other purposes where the decision to award will be based upon factors other than price. The RFP method is used when: (a) a complete, adequate, and realistic specification or purchase description is difficult to define; (b) the project is better described as a "scope of work"; (c) two or more responsible proposers are willing and able to compete; (d) the contract may be firm fixed price or some other type (e.g., cost plus fixed fee); (e) the selection cannot be made solely on the basis of price; and (f) Negotiations may be required with proposers after receipt of proposals. The RFP method of procurement lists in relative order evaluation factors that include responsibility factors and technical factors.
- 2. Preparation of Request for Proposals (RFP):** The RFP procurement documents will be organized into four (4) sections: (1) Information for proposers, (2) sample agreement (contract) including required clauses, (3) required forms, and (4) the scope of work or specifications.
- 3. Advertising for an RFP:** The Transportation Planning Director will secure advertising for all invitations for proposals. Publication in the NYS Contract Reporter, which has a national presence, is required, along with publication in at least one other Official Publication (the Post-Star is the Official Publication of the LC-LGRP for the A/GFTC region). In addition to the

publication in the State Contract Reporter, notifications of the bid opportunity will be made to other entities with a national audience, possibly including but not limited to specific trade organizations such as the American Planning Association and bid proposal clearing houses such as <http://www.governmentbids.com> and <http://findrfp.com/>. Affidavits of publication are provided by newspapers, which are proofed and retained in the procurement file. The “Notice to Proposers” is also sent to those firms with a known expertise in the area of interest and those who have been asked to be placed on the proposers list. The “Notice to Proposers” must appear in the official newspapers in advance of the stipulated due date for proposals. The New York State Contract Reporter stipulates minimum days. Affidavits, certificates, insurance and bond requirements, which will be used to bind the procurement, are provided to all proposers as inclusions in the RFP.

4. **Questions on an RFP:** Although questions and other contacts from firms in a position to make a proposal are permissible, *ex parte* conversations with vendors/contractors prior to the proposal being received should be confined to the mechanics of filing a proposal. Any questions that raise issues about the clarity of the RFP should be answered for any and all firms requesting the RFP through means of an addenda (see IFB procedure). Changes in the procurement specifications or requirements will be provided to all prospective proposers in the form of Addenda. Anyone making contact by or on behalf of a vendor/contractor (lobbying or selling) is required to disclose to A/GFTC, whose staff/members are required to make a record of any and all contacts by non-disclosed lobbyists once an RFP has been undertaken.
5. **Proposal Opening:** Proposals must be in writing. Proposal openings are not open to the public. Multiple bids/proposals must be obtained from an adequate number of qualified sources (at least two). The proposal evaluation process to be followed will be generally outlined in the RFP document. Staff will accept late proposals as permitted by the rules provided within the solicitation. Non-responsive and non-responsible proposals shall be rejected. In the event of protest, A/GFTC's Grievance Procedures will be initiated.
6. **Proposal evaluation and interviews:** A/GFTC staff and select impartial committee members will evaluate each proposal received that has been determined by the same parties to be responsible and responsive against the criteria outlined in the RFP: generally, proposed approach, experience of proposed staff, and experience of the firm. If a clearly preferred, proposal emerges following that evaluation, and anticipated or proposed costs are under \$100,000, staff will negotiate any desired refinements to the proposed scope and fee and initiate contract proceedings with LC-LGRPB. For contracts that exceed \$100,000, staff will seek award concurrence from the A/GFTC Planning Committee. In the event that more than one competitive proposal emerges from the evaluation process, staff will arrange interviews between the evaluators and the proposers that submitted preferred proposals. The interview results will be compiled with the evaluation results to identify the final selection. A/GFTC retains the right to reject any or all proposals.
7. **Contract Award:** Award will be issued by the Transportation Planning Director. The contract will be drafted based upon the form included in the RFP along with all required state and federal provisions. The scope of the work, prices, rates and terms for payment will be described in detail. After the contract has been formally prepared, signed and returned with all necessary documentation (i.e. insurance certificates, performance bond, etc.) the contractor is notified by A/GFTC staff to submit the signed agreement original(s) together with any commercial requirements (e.g., bonds, insurance certificates). Notices to proceed are signed by the Project Manager or his designee. Before the contractor can begin work, it must sign the contract and comply with the contract requirements.

F. PROCEDURE 6 - Sole or Single Source (Non-Competitive Negotiations)

- 1. Requirements:** This procurement method should be avoided, but may be used where no legitimate competition exists. The sole or single source method of procurement is used when: (a) there is only one proposer willing and able to compete; (b) the contract may be firm fixed price or some other type (e.g., cost plus fixed fee), or c) the selection can not be made solely on the basis of price. In such cases, negotiation is usually required with the proposer after receipt of proposal.
- 2. Use Request for Proposal (RFP) Procedures:** Noncompetitive proposals (sole source) procurement may be utilized only where there exists no viable competition. In order to establish the sole source justification, the RFP procedures should be utilized. Suitable consideration should be given to alternate designs and specifications. The reasonableness of the price should be explored, along with alternatives to the purchase. An explanation shall be provided as to why there is no competition and why the purchase from a sole source should be justified. Examples will include situations where the product must be used with a product or design that has already been purchased, or where only a specific design meets the needs of the purchaser.
- 3. Negotiations:** After the proposal is received, the Transportation Planning Director reviews the proposal. The proposal is checked to ensure that applicable contract requirements are met. When the review and analysis is completed, contract negotiations are initiated. Negotiations are conducted in accordance with guidelines stipulated in the RFP. Once negotiations and the price/cost analysis are completed, and if the proposed contract entails fees or costs in excess of \$40,000, a contract award recommendation is presented to A/GFTC Planning Committee for approval.