



DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Selection Announcement and Request for Expressions of Interest to Participate in Pilot Program for Nonprofit Procurements

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice.

SUMMARY: The FTA announces the selection of one nonprofit participant and solicits expressions of interest from additional eligible nonprofit entities to participate in the Pilot Program for Nonprofit Cooperative Procurements (Pilot Program). The Pilot Program, the establishment of which FTA announced on August 22, 2017, is aimed at increasing innovation, promoting efficiency, and demonstrating the effectiveness of cooperative procurement contracts for rolling stock and related equipment administered by eligible nonprofit entities.

DATES: Expressions of interest to become a nonprofit entity in the Pilot Program must be received by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Expressions of interest may be submitted via U.S. mail, electronic mail, or fax. Mail submissions must be addressed to the Office of Acquisition Management, Federal Transit Administration, 1200 New Jersey Avenue SE., Room E42-332, Washington, DC 20590. Email submissions must be sent to NonprofitPilotProgram@dot.gov. Facsimile submissions must be submitted to the attention of Nonprofit Pilot Program at 817-978-0575. If there is an insufficient number of eligible nonprofit entities that meet the requirements of the Pilot Program, FTA may solicit additional interest in the future.

FOR FURTHER INFORMATION CONTACT: For program matters, James Harper, FTA Office of Acquisition Management, telephone (202) 366–1127 or email *James.Harper@dot.gov*. For legal matters, Christopher Hall, FTA Office of Chief Counsel, telephone (202) 366–5218 or email *Christopher.Hall@dot.gov*.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Background
- II. Pilot Program Description
- III. Prior Solicitation
- IV. Eligibility Information
- V. Expression of Interest Submission Process
- VI. Application Review
- VII. Pilot Program Administration

I. Background

Section 3019 of the Fixing America’s Surface Transportation (FAST) Act, Public Law 114–94, permits FTA grantees—meaning a recipient or sub-recipient of assistance under chapter 53 of title 49, United States Code---to purchase rolling stock and related equipment from cooperative procurement contracts entered into by either a State government or an eligible nonprofit entity and one or more Transit Vehicle Manufacturer (TVM). Section 3019 was designed to address the high purchasing costs attributable to the relatively small size of procurements for rolling stock and related equipment, particularly for small and rural public transportation providers. Many States currently have authority to enter into cooperative

purchasing contracts, also known as “State schedules.” However, such authority was not previously extended to nonprofit entities.

II. Pilot Program Description

Section 3019(b)(3) authorizes a Pilot Program to demonstrate the effectiveness of cooperative procurement contracts administered by eligible nonprofit entities. A cooperative procurement contract in the Pilot Program means a contract between an eligible nonprofit entity and one or more TVM(s) under which the TVM(s) agree to provide an option to purchase rolling stock and related equipment to multiple grantee participants. Where permitted by State law, a grantee may participate in a cooperative procurement contract under the Pilot Program without regard to whether the grantee is in the same State as the lead nonprofit entity. Participation by FTA grantees in a nonprofit cooperative procurement under the Pilot Program is voluntary. These contracts are intended to be separate from State cooperative purchasing contracts and provide another opportunity for public transportation systems of all sizes to enhance their purchasing options. The FTA will assess the benefits and effectiveness of the Pilot Program to assist grantees in developing more efficient and innovative approaches to acquiring rolling stock and related equipment.

Nonprofit entities selected for the Pilot Program may enter a cooperative procurement contract for an initial term of not more than 2 years. The contract may include not more than three optional extensions for terms of not more than 1 year each. Thus, the contract may be in effect for a total period of not more than 5 years, including each extension. A nonprofit entity selected for the Pilot Program must develop the terms of the contract and the contract must be solicited and awarded in accordance with all applicable FTA and other Federal statutes, regulations, and policies, including FTA’s Buy America requirements (49 U.S.C. 5323 and 49

CFR Part 661), 2 CFR parts 200 and 1201, FTA Circular 4220.1F, and Disadvantaged Business Enterprise regulations (49 CFR Part 26).

III. Prior Solicitation

On August 22, 2017, FTA published in the Federal Register (82 FR 39947), a notice announcing the establishment of the Pilot Program for Nonprofit Cooperative Procurements and solicited expressions of interest from eligible nonprofit entities to participate. Four non-profits submitted expressions of interest on October 23, 2017 in response to FTA's Federal Register Notice (FRN).

The FTA determined that only one applicant – Vermont Energy Investment Corporation (VEIC) -- was an eligible nonprofit that satisfied all the requirements of Section 3019 and the FRN. The FTA and VEIC will execute a Memorandum of Agreement to designate VEIC under the Pilot Program.

Section 3019 requires FTA to designate not less than three eligible nonprofit entities to enter cooperative procurement contracts. Since FTA determined that only one applicant met the requirements of Section 3019 from the previous solicitation, this Notice is intended to solicit additional expressions of interest and to provide clarification regarding the eligibility of nonprofit entities.

IV. Eligibility Information

Eligible nonprofit entities for the Pilot Program should either be a nonprofit cooperative purchasing organization that is not an FTA grantee or sub-grantee, or a consortium of eligible nonprofit cooperative purchasing organizations. See Section 3019(b)(1)(A)(ii). Successful entities are expected to develop and issue solicitations for a cooperative procurement contract within 60 days of their selection into the Pilot Program. The solicitation of a contract must be

conducted through a competitive process that will comply with all applicable Federal procurement requirements and policies, including FTA's full and open competition requirement.

To promote the fullest opportunity for grantees to participate in the Pilot Program, FTA anticipates that cooperative procurement contracts will be open and available to all FTA grantees. To address special circumstances, however, FTA may consider a cooperative procurement contract in the Pilot Program which may be limited only to recipients in one or more of FTA's grant programs.

A lead nonprofit entity in the Pilot Program may charge participants in the contract for the cost of administering, planning, and providing technical assistance for the contract in an amount that is not more than one percent of the total value of the participant's order placed on the contract. The one percent charge may either be incorporated into the price of the rolling stock and related equipment offered under the cooperative procurement program or directly charge the grantee participants for the costs, but not both. If the nonprofit directly charges the grantee participants for the costs, it cannot charge any individual grantee more than one percent of the total value of the grantee's order.

V. Expression of Interest Submission Process

Interested nonprofit entities for the Pilot Program must submit the required information by U.S. mail, email or facsimile by 60 days after publication, as specified in the **DATES** section of this notice, above. The FTA reserves the right to request additional clarifying information from all applicants before making selections to participate in the Pilot Program. Nonprofit entities wishing to participate in the Pilot Program must submit an expression of interest to FTA no longer than ten pages in length including any supporting documentation.

Interested nonprofit entities must provide the following information to FTA in narrative format or as otherwise instructed:

- a. Description of the procurement experience held by the personnel in the applicant's organization, including sufficient information to demonstrate the ability to successfully carry out and administer a cooperative procurement contract or contracts;
- b. A description of the familiarity of the applicant's personnel with Federal and FTA procurement standards, requirements, and policies;
- c. A description to show how the applicant's program will be administered. This description should include, but not be limited to, the process by which vendors will be selected for the cooperative procurement contract, the process by which grantee participants will be registered in the program and the process for grantee participants to place orders on a cooperative procurement contract.
- d. The articles of incorporation of the applicant to demonstrate that the purpose of the nonprofit organization is consistent with the purpose of the Pilot Program;
- e. Evidence that the applicant possesses adequate financial capacity to successfully administer a cooperative procurement contract or contracts;
- f. Documentation that the applicant is a nonprofit entity in good standing in the State of incorporation; and,
- g. Certification that the applicant is not indebted to a Federal or State taxing authority.

All information submitted as part of or in support of the Pilot Program application must be publicly available data or data that can be made public and methodologies that are accepted by industry practice and standards, to the extent possible. If the submission

includes information the applicant considers to be a trade secret or confidential commercial or financial information, the applicant should do the following:

- (1) Note on the front cover that the submission “Contains Confidential Business Information(CBI);”
- (2) mark each affected page “CBI;” and
- (3) highlight or otherwise denote the CBI portions.

FTA protects such information from disclosure to the extent allowed under applicable law. If FTA receives a Freedom of Information Act (FOIA) request for the information, FTA will follow the procedures described in the U.S. DOT FOIA regulations at 49 CFR 7.17. Only information that is ultimately determined to be confidential under that procedure will be exempt from disclosure under FOIA. Should FTA receive an order from a court of competent jurisdiction ordering the release of the information, FTA will provide the applicant timely notice of such order to allow the applicant the opportunity to challenge such an order.

FTA will not challenge a court order on behalf of an applicant.

VI. Application Review

The FTA will evaluate the submissions to determine which applicants demonstrate that they have the capability to effectively enter and administer a cooperative procurement contract. The FTA will select at least two additional applicants from the submitted expressions of interest to be part of the Pilot Program, except that if there are less than two applicants able to meet the requirements of the Pilot Program, FTA may solicit additional interest in the future. The FTA will evaluate the experience, legal, technical, and financial capacity of interested nonprofit entities to implement the Pilot Program successfully.

VII. Pilot Program Administration

1. Notice

After an announcement by the FTA Administrator or designee of the final selection(s) is posted on the FTA Web site, FTA will publish final selections for the Pilot Program in the Federal Register.

2. Pilot Program Administration and Reporting Requirements

The Pilot Program is not funded with Federal funds; selected nonprofit entities may charge the grantee participants in the cooperative procurement contract for the cost of administering, planning, and providing technical assistance for the contract in an amount that is not more than one percent of the contract price. The selected nonprofit entity may incorporate the cost into the price of the contract or directly charge the grantee participants for the cost, but not both.

To achieve a comprehensive understanding of the utility and effectiveness of the Pilot Program, FTA, or its designated independent evaluator, will require access to project data. Selected nonprofit entities should be prepared to collect and maintain data related to participating vendors, participating grantees, and the quantity and price of rolling stock and related equipment procured by grantees through the cooperative procurement.

Issued in Washington, DC.

K. Jane Williams,

Acting Administrator.