



**NORTH CENTRAL TEXAS
CLEAN SCHOOL BUS PROGRAM**

2012 CALL FOR PROJECTS

GUIDELINES

January 9, 2012

North Central Texas Council of Governments
616 Six Flags Drive
Arlington, TX 76011
817-704-2508
www.nctcog.org/CleanSchoolBus

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INTRODUCTION

The North Central Texas (NCT) Clean School Bus Program has been created to assist schools, school districts, and school bus operators in the NCT region in reducing emissions and improving air quality. One segment of the program provides financial assistance through a competitive call for projects to reduce nitrogen oxides (NO_x) emissions from older, high-polluting school buses. The 2012 Call for Projects is intended to provide grants through a competitive call to reduce NO_x emissions by retrofitting, repowering, and replacing high-emitting buses, and installing idle reduction technology. The overall goals of this call for projects is to advance the use of clean technologies, including the potential for a project to encourage others to use clean technology and result in the wider use of such technology in the region. The NCT Clean School Bus Program is both fuel- and technology-neutral. The 2012 Call for Projects is made possible by a grant from the U.S. Environmental Protection Agency (EPA) National Clean Diesel Funding Assistance Program.

PURPOSE

Nine counties in the NCT region have been classified as serious nonattainment for the 1997 8-hour ozone standard, meaning these counties do not meet the National Ambient Air Quality Standard set forth by the U.S. EPA for this pollutant. Ozone is formed when NO_x and volatile organic compounds (VOC) mix in the presence of sunlight and heat. In 2008, the U.S. EPA revised the 8-hour ozone standard based on newer scientific evidence, strengthening it from 85 parts per billion (ppb) to 75 ppb, to ensure adequate protection of public health and the environment. The new standard is anticipated to go into effect in 2012.

Numerous efforts are being implemented to decrease the amount of pollutants emitted that contribute to ozone formation. One of these measures is to reduce emissions from school bus fleets. 2010 data from the Texas Department of Motor Vehicles (TxDMV) indicates there are close to 7,150 school buses in the Dallas-Fort Worth (DFW) nine-county nonattainment area which, when combined, emit over 2.20 tons per day of NO_x and 0.18 tons per day of VOCs. Over 800 school buses still on the road are more than two decades old, meaning they pre-date current air pollution control requirements. In addition, buses may idle for as much as 30 minutes in queue waiting for children to board and un-board the bus in the afternoon after school and for special events such as field trips and extracurricular activities. The replacement, repower, or retrofit of older school buses with clean emissions technology, or installation of idle reduction technology would result in a significant reduction in pollutants and an improvement in air quality.

There is a strong need to reduce emissions from school buses in the NCT area not only to meet regional clean air goals, but to also protect the health and well-being of school-aged children. Studies have concluded that children's health is considerably more at risk of being adversely affected by air pollution than adults. Numerous studies have been conducted regarding the effects of school bus exhaust pollution on children. Key findings include:

- 1) Pollution from the exhaust system of a school bus has a significant impact on the occupants inside the bus, particularly when the windows are up.¹
- 2) Emissions from engine start-up are significantly less than the emissions produced from idling over a 10-minute period.²

CONTACT INFORMATION

Please submit any questions or comments to:

Email: CleanSchoolBus@nctcog.org

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SCHEDULE

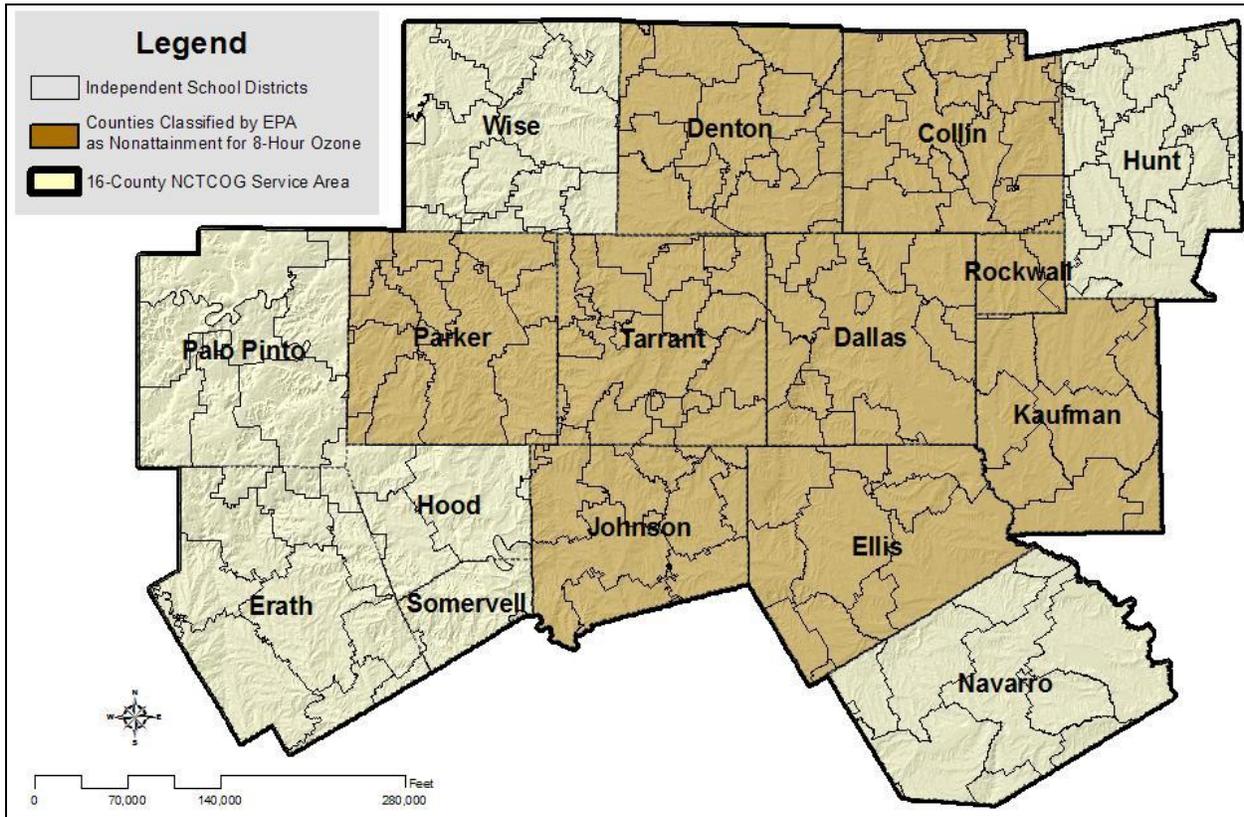
Task	Estimated Timeframe
Call for Projects Opens	January 9, 2012
Deadline to Adopt Clean Fleet Vehicle Policy	March 16, 2012
Call for Projects Closes	March 16, 2012 5:00 p.m. Central Time
Evaluate and Select Proposals	March/April 2012
Announce Awarded Projects	Summer 2012
Awardees to Receive Agreements and Begin Purchasing	Summer 2012
Project Implementation Deadline	February 28, 2013

ELIGIBLE ENTITIES

This call is open to public and private schools, school districts, and school bus operators in the North Central Texas Council of Governments' (NCTCOG) 16-county service area, which includes the counties of Collin, Dallas, Denton, Ellis, Erath, Hood, Hunt, Johnson, Kaufman, Navarro, Palo Pinto, Parker, Rockwall, Somervell, Tarrant, and Wise. Nine of these counties (Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall, and Tarrant) are classified as nonattainment for the pollutant ozone. This area is outlined in Exhibit 1. A more detailed map is located at www.nctcog.org/CleanSchoolBus. School buses that operate primarily within nonattainment counties may be given greater consideration in the selection process.

Public sector entities that wish to apply for funds through this call for projects must have adopted the Clean Fleet Vehicle Policy by March 16, 2012. New adoptees must submit a signed copy of the policy to NCTCOG offices by the application deadline. The Clean Fleet Vehicle Policy is a model ordinance that addresses ways fleets can have a positive impact on air quality through best practices in vehicle acquisition, maintenance, and operations. This policy also includes restrictions on vehicle idling and requirements for driver training. Entities that have adopted the policy must be in compliance with all requirements, including annual reporting, in order to be eligible for funding. Private entities are also encouraged, although not required, to adopt a similar type policy as part of a cooperative effort to reduce emissions. For more information on the Clean Fleet Vehicle Policy, or to check your organization's status, please visit: www.nctcog.org/FleetPolicy.

Exhibit 1: School Districts in 16-County NCTCOG Service Area*



*Click image for a more detailed map online.

ELIGIBLE PROJECTS AND COSTS

Vehicles must be classified as a diesel school bus and must have been owned and operated by the applying entity for a minimum of two years. Grants must be used for the replacement, repower, retrofit, or installation of idle reduction technology. All project types must achieve a reduction of NO_x emissions. Replacements, repowers, and retrofits are required to reduce NO_x emissions by 25 percent or greater. Particulate Matter (PM) emissions reductions will be considered in the scoring process, with NO_x being the primary focus due to the region being in nonattainment for ozone. Eligible activities and costs include:

1. Vehicle Replacement – replacement of a diesel-powered school bus with a newer model year school bus, including hybrid, or alternatively powered buses.
Eligible Costs: up to 25 or 50 percent of the incremental cost depending on the provisions indicated below:

Incremental Cost Threshold*	Engine Model Years	Certified Family Emission Limits (FEL)** (g/bhp-hr)		
		NO _x ***	PM	NMHC (nonmethane hydrocarbons)
25%	2007-2013	2.375	0.01	0.14
50%	2008-2013	0.2	0.01	0.14

* In addition to the emission level limits, all engines must be particulate filter equipped, or catalyst equipped in the case of a compressed natural gas (CNG) engine, and meet regulatory requirements for school bus engines manufactured in that model year.

** If the FEL does not exist, then the Standard Test Cap (STD) must be used.

***NO_x emission limit must be met without credits in order to qualify for 50 percent funding.

Project Eligibility:

- New vehicle must remain operational for a minimum of five years.
- New vehicle must have a 25 percent reduction in NO_x emissions.
- The vehicle being replaced must be scrapped and the new vehicle must perform the same function and have a similar gross vehicle weight rating as the vehicle being replaced.
- The engine must be scrapped and the new engine must be of comparable horsepower.

2. Engine Repower – replacement of an existing diesel engine with a certified new, rebuilt, or remanufactured engine.

Eligible Costs: up to 75 percent of the incremental cost.

Project Eligibility:

- New engine must remain operational for a minimum of five years.
- New engine must have a 25 percent reduction in NO_x emissions.
- The engine being replaced must be scrapped and the new engine must be of comparable horsepower.

Repowers or replacements that would have occurred through normal fleet turnover are not eligible for funding under this program. The old vehicle/engine must have been scheduled to remain operational in the fleet for a minimum of five more years if grant funding were not available. Prior to award, NCTCOG may require a third-party mechanic to verify remaining vehicle/engine useful life.

3. Retrofit – add-on of emission control equipment to an existing diesel engine or exhaust system.

Eligible Costs: up to 100 percent of the incremental cost.

Project Eligibility:

- Must remain operational for a minimum of five years.
- Must have a 25 percent reduction in NO_x emissions.
- Technologies must be EPA or California Air Resources Board (CARB) verified. A list of all approved retrofit technologies can be found at:

EPA – epa.gov/cleandiesel/verification/verif-list.htm

CARB – www.arb.ca.gov/diesel/verdev/vt/cvt.htm

A current list, as of January 9, 2012, of EPA- and CARB-verified technologies with a reduction in NO_x emissions of 25 percent or greater is provided in Exhibit 2.

**Exhibit 2: Verified Retrofit Technologies with NO_x Emissions Reductions
25 Percent or Greater**

Manufacturer	Technology	Applicability	Reduction (%)	
			NO _x	PM
Cleaire Longview (reformulated)	Lean NO _x Catalyst and DPF	1993-2006 model year on-road; 15 ppm sulfur diesel; biodiesel	25	85
International Truck & Engine Corp.	Green Diesel Technology-Low NO _x Calibration plus Diesel Oxidation Catalyst with Ultra Low Sulfur Diesel (ULSD)	Highway, light heavy-duty, 4 cycle, Navistar/International engines, model years 1999-2003 in the following families: XNVXH0444ANA, YNVXH0444ANB, 1NVXH0444ANB, 2NVXH0444ANB, 3NVXH0444ANB	25	0 to 10
Johnson Matthey EGRT	EGR/DPF	2000 International DT-466, 2000 Cummins ISM 2001 Cummins ISB, 1998-2002 Cummins ISC, 2001 Cummins ISL, 2001 MY DDC - 50, and 2001 DDC - 60. on-road; 15 ppm sulfur diesel	40	85
Johnson Matthey	Selective Catalytic Reduction Technology (SCRT)	On-highway, 4-cycle, non-EGR, 250-500 hp heavy-duty diesel engines, originally manufactured from model years 1994 through 2002.	70	90

Due to more stringent emissions controls on newer engines, it is recommended that school buses with engines manufactured prior to 1993 are best candidates for vehicle replacement or engine repower. Vehicles with engines manufactured in 1993 or after are candidates for vehicle replacement, engine repower, and retrofit. Emission standards for on-road heavy-duty vehicles are given in Exhibit 3.

Exhibit 3: On-Road Heavy-Duty Compression Ignition (CI) Engines NO_x Emission Standards

Year of Manufacture	Diesel Engines Emission Standard
	NO _x Only (g/bhp-hr)
1989 and earlier	10.7
1990	6.0
1991-1997	5.0
1998-2003*	4.0
2004-2006*	2.375 - 4.0
2007-2009*^	0.2 - 2.375
2010+ *	0.2

* Due to engine phase-in schedules, any application request for a 2003 or newer engine must include a family engine code to determine emissions levels.

4. Idle Reduction – device that provides necessary power needs while allowing the primary diesel engine to be turned off.

Eligible Costs: up to 95 percent of the incremental cost.

Project Eligibility:

- Must remain operational for a minimum of three years.
- Must achieve a reduction in NO_x emissions.
- Technologies must be on the EPA verified list. Detailed information on verified idle reduction systems can be found at www.epa.gov/cleanschoolbus/antiidling.htm#tech.
- Applicants are encouraged to consult this list for information on different companies and products.

Model year 2008 and newer engines which are certified for operation in California have stricter emissions controls when at idle than older model year engines and those not certified for use in California. While idle reduction projects on these vehicles are eligible, applicants are advised that they may be less cost effective and may not score well under competitive evaluation.

A current list, as of January 9, 2012 of EPA-verified idle reduction manufacturers for school buses is provided in Exhibit 4.

Exhibit 4: Verified Idle Reduction Technologies for School Buses

Technology Type	Description	Verified Manufacturers*
Fuel-Operated Heaters	Provides heat only to cab and/or engine; may be paired with cooling technology to provide more complete climate control. Uses a small volume of fuel as compared to the truck diesel engine.	<ul style="list-style-type: none"> • Espar • Phillips and Temro • Webasto

* Please check the EPA Web page for the most up to date list of verified technologies.

INELIGIBLE COSTS

Ineligible costs include:

- Fees associated with Buy Boards and financing.
- Administrative costs and other internal costs of the grant recipient including, but not limited to, personnel expenses, internal salaries, indirect costs, and travel.
- Fees for a third-party consultant or dealer hired by the grant recipient to coordinate the application or manage and administer the grant-funded activities, including coordination of the work and submission of reports and paperwork to NCTCOG for the grant recipient. This restriction is not intended to limit the ability of the equipment supplier or installer to include reasonable and necessary costs for managing the work to be performed in the price of the vehicle, equipment, or installation services. The costs for professional services, including engineering and technical work, required for completion of the activity may be included, subject to the restrictions pertaining to that type of project. Per the Uniform Grant Management Standards (UGMS), the cost plus a percentage of cost method of contracting for professional services shall not be used.

APPLICATION REQUIREMENTS

Projects must comply with the following elements to be considered for funding.

- Project Type: Project(s) need to be a diesel-powered school bus replacement, repower, retrofit, or installation of idle reduction technology, and all project types are required to achieve a reduction of NO_x emissions. School buses must be 16,000 lbs or greater gross vehicle weight to be eligible for grant funding.
- Activity Life: The minimum number of years the applicant must operate the new vehicle/engine/technology in the fleet and report usage to NCTCOG. For replacement/repower projects, the Activity Life is also the number of years the applicant would have continued to operate the old vehicle/engine had grant funds not been available. NCTCOG may require a third-party mechanic to verify vehicle/engine remaining useful life.
- Cost Estimate:
 - Applicants must submit a cost estimate for each project type. This cost estimate will be the basis for determining the maximum grant award amount based on applicable funding thresholds. Submittal of a cost estimate does not necessarily constitute fulfillment of applicant's procurement responsibilities. For more information on procurement, see *Procurement Requirements* on page 19 of this document.
- EPA/CARB Certification Documentation: Applicant must document EPA/CARB approval of requested engine repowers/vehicle conversions; those proposing repower/overhaul projects must submit EPA/CARB engine certification. Retrofit projects must be EPA/CARB verified and must also include a copy of EPA or CARB certification. Idle reduction technology units must be on the EPA verified technology list, which can be found at www.epa.gov/cleanschoolbus/antiidling.htm#tech.
- Clean Fleet Vehicle Policy: All public sector entities must have adopted the Clean Fleet Vehicle Policy prior to the project deadline of March 16, 2012 at 5:00 pm Central Time and be in compliance with annual reporting requirements. Private entities are encouraged to adopt a similar policy, as it may be used as an evaluation criterion.
- DUNS Number: All applicants are required to provide a Dun and Bradstreet (D&B) Data Universal Numbering System (DUNS) number when applying. Applicants can receive a DUNS number, at no cost, by calling the dedicated toll-free DUNS Number request line at 1-866-705-5711, or visiting the D&B Website at www.dnb.com/us/. If a DUNS number has not yet been assigned, please include the date on which this number was requested.

- Usage Reporting: Applicant must commit to complete semi-annual usage reporting on project use for the full Activity Life of the project. Minimum Activity Life for each project type is as follows:
 - Replacements: five years
 - Repowers: five years
 - Retrofits: five years
 - Idle Reduction Technology: three years
- Operation: School buses must operate within the 16-county NCTCOG service area and must continue to operate within the stated counties of operation for the entire approved Activity Life of the grant.
- Voluntary Reductions: Projects must be voluntary in nature and not required by any local, State, or federal law, rule, regulation, memorandum of agreement, or other legally binding document.
- Expedited Fleet Turnover: It is not NCTCOG's intention to fund replacement or repower projects that would have occurred through the normal attrition of vehicles or to provide funds for expanding a fleet. Normal attrition is defined as a replacement or repower that is scheduled to take place between now and the end of the Activity Life, which is five years for both replacement and repower projects. Normal attrition is determined by the vehicle or fleet owner's budget plan, operating plan, standard procedures, or retirement schedule. For example, if a school bus fleet typically retires vehicles after 20 years, a bus that is currently in its 18th or 19th year of service is not eligible for replacement. A bus that is currently in its 15th year of service and has five years of useful life remaining (as defined by the fleet's retirement schedule) is eligible for replacement. A fleet turnover schedule must be provided as part of the application. See examples of fleet turnover schedules at www.nctcog.org/CleanSchoolBus. The schedule must reflect 15 years (e.g. 2000-2015) to demonstrate average fleet turnover.
- Project Dates: Projects must be implemented between Summer 2012 and February 2013. Grant recipients will be notified of award in Summer 2012, with a Notice to Proceed provided as soon thereafter as practical. Grant recipients are not permitted to incur approved costs until Notice to Proceed is received.
- Emissions Credit: Applicant must surrender emissions reductions to NCTCOG to meet air quality requirements and goals. The recipient may not utilize emissions reductions to satisfy other air quality commitments.
- Local Match: Applicants need to identify the source of local match. Matching funds must not already be tied to emission reduction commitments (i.e. funding from the Texas Emissions Reduction Plan [TERP] may not be used as matching funds).
- Financial Disclosure: Applicant must notify NCTCOG of the value of any existing financial incentive that directly reduces the cost of the proposed activity, including tax credits or deductions, other grants, anticipated scrap value, or any other public financial assistance, to allow for accurate calculation of incremental cost.
- Program Income: Any funds received for scrapped equipment/engines will be treated as program income, which may include deducting scrap value from the total project cost for the purposes of calculating total eligible grant amount, or using scrap value as part of the applicant's required cost share. Applicants may be required to report scrap value when requesting reimbursement for implemented activities, or to retain scrapped equipment for internal use.
- Notification: Applicant must agree to notify NCTCOG of any changes in the following during the Activity Life: termination of use, change in use, sale, transfer, or accidental or intentional destruction of grant-funded vehicles or equipment.
- Written Certification of Disposition: At the end of the Activity Life, the applicant must provide to NCTCOG a written certification of the disposition of grant-funded vehicles/equipment. The certification shall describe the continued use and condition of the vehicles/equipment, fair market value, remaining useful life, and any actual or anticipated improvements that may increase the value of the vehicles/equipment.

BUS AND ENGINE DISPOSITION

Buses and engines being replaced must be rendered permanently inoperable and disposed of in an environmentally responsible manner in accordance with local disposal laws. This includes drilling a three-inch hole in the engine block, cutting the frame of the chassis in a wedge 75 percent of the way through, and recycling salvageable materials. Other permanent destruction methods may also be allowable upon approval by NCTCOG. An engine may be retired either by the drilling method previously mentioned, or by sending it to a remanufacturing facility. The facility must be operated or authorized by the original engine manufacturer to remanufacture the engine. The process includes removing all parts and using the old block to build a remanufactured engine with a new serial number. Documentation of disposition, including before and after photographs, will be required for reimbursement. NCTCOG staff will be available, upon request, to witness vehicle and/or engine destruction if so desired.

APPLICATION PROCESS

To apply for funding, applicants must submit a complete grant application, including fleet turnover schedule, and cost estimate(s) for new vehicles, engines, retrofits, and idle reduction technology, including installation costs, by the application deadline. Part 1 and 2 of the online application can be accessed from the NCT Clean School Bus Program Website at www.nctcog.org/CleanSchoolBus, or a hard copy may be obtained by contacting NCTCOG staff as indicated in the *Contact Information* section of this document.

Applications must be received “in hand” by 5:00 pm Central Time on Friday, March 16, 2012. In accordance with the Call for Projects procedures established by the Regional Transportation Council (RTC) Bylaws, NCTCOG must have the submitted application “in hand” at the NCTCOG offices by the deadline. Late submittals will not be accepted in any format after the deadline, the online application will be disabled, and submit button will be deactivated; emails will not be received but will be automatically deleted; and mail will be returned, unopened.

Supplemental information will not be accepted after the deadline. Non-material omissions will not constitute an incomplete application. Applicants are encouraged to submit applications far enough in advance of the submission deadline to allow NCTCOG staff to review for completeness.

To apply for the North Central Texas Clean School Bus Program 2012 Call for Projects, go to www.nctcog.org/CleanSchoolBus and follow the links to the online application. The steps below outline the procedure for filling out and submitting an application.

Download the project fleet spreadsheet(s) for specific activity information. Please download one spreadsheet per project type. For example, if a school district plans to apply for 6 school bus replacements, and 20 idle reduction technology units, then the applicant would download one replacement fleet spreadsheet and one idle reduction fleet spreadsheet.

Follow instructions to complete the online application. To save answers and come back to the application another time, click ‘Submit’. Please note that all questions must have a complete answer, or placeholder answer in order for the form to be saved successfully. Use your Federal Identification (FEI) Number to log back into the system.

- a. Sections I, II, III, and IV of the online application include entity and contact information, and Section V provides an opportunity for applicants to give details about how receiving grant funds will help achieve the overall goals of the NCT Clean School Bus Program. Answer the questions as completely as possible.

- b. Required project documents must be uploaded to the Clean School Bus server. All items listed in the *Checklist* section of this document must be uploaded for the application to be deemed complete. Entities are only allowed one (1) file upload in the online system, and since multiple items are required, they will need to be compressed into a *.zip file. Windows XP has basic built-in zip capability so that files can be compressed by using the Compressed (zipped) Folder feature. For instructions on how to create a *.zip file on a Windows-based system, please visit www.office.microsoft.com/en-us/infopath-help/zip-or-unzip-a-file-HA001127690.aspx. To create *.zip folders on a Macintosh system, please visit www.apple.com/uk/pro/tips/zip.html

To finalize the application, check the checkbox and click 'Submit'. This action will send the completed application to NCTCOG. A confirmation email will then be sent to the Authorized Official and the Project Representative.

NCTCOG prefers online submittal of grant applications. However, in the event online submittal is not feasible, a hard copy application may be submitted. Alternative submittal methods include email, mail, or hand-delivery at:

Submittal Type:	Address:
email	CleanSchoolBus@nctcog.org
Regular Mail	North Central Texas Council of Governments Transportation Department NCT Clean School Bus Program Attn: Russell Garner 616 Six Flags Drive Arlington, Texas 76011

If delivering in a paper format, the application must be in a sealed envelope with a return address on the outside, and must be “in hand” by the deadline. Applications which have been postmarked but are not received by the deadline do not constitute “in hand”. Email submissions are limited to five (5) megabytes in size per email. If documents exceed this size limit, multiple emails may be submitted. If submitting via email, the statement below must be included in the body of the email:

I hereby certify that, to the best of my knowledge and belief, all information provided in this application and any attachments is true and correct. By emailing this file, I understand that I am formally submitting an application on behalf of the applicant for grant funding and am authorized to do so. I further understand that emailing this file shall constitute an electronic signature for the application. In addition, I understand that prior to incorporating these forms and information into a grant contract, the data and information may be revised by NCTCOG for accuracy and that my acceptance of a grant contract will constitute agreement with those revisions.

CONSULTANTS

Private consultants may be available to assist in completing and submitting an application. These consultants do not represent NCTCOG, and NCTCOG neither encourages nor discourages the use of a consultant to assist with the application process. NCTCOG has no agreement with any consultant and applications submitted by a particular consultant will not receive any more favorable treatment than other applications. Any fees charged by a consultant are the responsibility of the applicant and may not be charged to the grant, either directly or as an addition to the cost basis of the grant-funded equipment.

SELECTION CRITERIA

Properly completed, eligible applications will be evaluated and ranked by NCTCOG staff based on the following criteria:

- Quantitative Assessment:
 - Cost-Effectiveness
 - Cost per ton of NO_x reduced (1st Priority)
 - Total tons of NO_x reduced (2nd Priority)
 - Cost per ton of PM reduced (3rd Priority)
 - Total tons of PM reduced (4th Priority)
- Qualitative Assessment:
 - Primary operation in nonattainment area
 - Carbon dioxide (CO₂) emission reductions
 - Petroleum displacement
 - Readiness for implementation
 - Feasibility/risk
 - Clearly identified funding needs, implementation procedures, and source(s) of local match
 - Previous participation in RTC initiatives
 - To receive full points, previous project implementation has to have been successful, completed on time and without significant changes to work scope, and was satisfactory overall. Entities that have not previously partnered with NCTCOG will receive a neutral score as NCTCOG encourages new partnerships.
 - The overall goals of the NCT Clean School Bus Program are to advance the use of clean technologies, including the potential for the project to encourage others to use clean technology and to result in the wider use of clean technology in the region.

NCTCOG is not obligated to fund a proposal from an applicant that has demonstrated marginal or unsatisfactory performance on previous grants or contracts with NCTCOG and/or other State or federal agencies. NCTCOG is not obligated to fund a proposal from an applicant based on a determination of the risks, including the financial condition of the applicant and other risk factors as may be determined by NCTCOG.

Regardless of the scores and ranking assigned, NCTCOG may base funding decisions on other factors associated with best achieving the goals of the program, and NCTCOG is not obligated to select a project for funding. Additionally, NCTCOG may select parts of a proposal for funding and may offer to fund less than the dollar amount requested in a proposal.

GRANT ADMINISTRATION AND REIMBURSEMENT OF EXPENSES

Successful applicants will be notified of their selection and the amount of grant funds that has been awarded. Entities selected to receive grant funding will be required to execute a contract with NCTCOG in order to receive grant funding. All services or work carried out under a contract awarded as a result of this call for projects must be completed within the scope of work, timeframe, and funding limitations specified by the contract. A Notice to Proceed will be provided to awarded applicants. After notice is received, project implementation can commence, and costs may begin to be incurred. **Under no circumstances will reimbursement be made for costs incurred prior to the date of the Notice to Proceed.** Upon signature and execution of the contract by NCTCOG, a copy of the executed contract will be returned to the applicant.

Grants will be made on a reimbursement basis for eligible expenses incurred and paid by the grant recipient. A cost may not be considered incurred until the grant-funded vehicle and/or technology has been received and accepted by the grant recipient. Requests for reimbursement shall include documentation to show that the vehicle/equipment has been received, the expenses have been incurred

and paid by the grant recipient, and proper vehicle disposition has occurred (if applicable). Recipients will also have the option to assign their grant payments directly to a dealer or service provider. NCTCOG will supply reimbursement request forms for use by the recipient.

To further enhance partnership among all entities, as well as market vehicle and technology funded through this program, the grant recipient must also agree to place a label or sticker on the grant-funded vehicles and equipment, upon request by NCTCOG.

Applicants that are successfully awarded funding through this call are obligated to fulfill the requirements of the contract including, but not limited to, achievement of semi-annual usage requirements, surrender of all eligible emissions credits, and completion of reporting requirements to NCTCOG for the full Activity Life of the project. Failure to comply with these commitments and/or reporting requirements may result in the return of all or a pro-rata share of the grant funds to NCTCOG.

PROCUREMENT

Awarded applicants under this Call for Projects will have to demonstrate an open, fair, and competitive procurement or purchasing process in compliance with State and federal law. NCTCOG has adopted Third Party Procurement Procedures to assist awarded applicants in complying with these requirements. These procedures are attached as Appendix A. All awardees under this Call for Projects must 1) maintain a written code or standards of conduct related to contract award and administration, 2) maintain a contract administration system to ensure vendors and contractors perform according to the terms, 3) conduct all procurement transactions in an open, fair, and competitive manner, and 4) maintain written procurement procedures. Appendix A provides guidance on the requirements for each type of procurement by dollar threshold. For example, purchases that exceed \$100,000, require NCTCOG's advanced approval of the awarded applicant's proposed procurement process. Appendix B.1 provides a checklist that NCTCOG will use to determine whether awardees have complied with the procurement requirements and Appendix B.2 details federal procurement requirements. Awardees are encouraged to review these procedures carefully. NCTCOG staff is available to assist awarded applicants with regard to questions they may have in meeting these requirements.

LOCAL MATCH REQUIREMENT

Applicants will need to identify sources of local match prior to submitting the application. Funding received through the NCT Clean School Bus Program cannot be combined with other federal funding or TERP funds. Also, matching funds must not already be tied to emission reduction commitments. Applicants must surrender emissions reductions to NCTCOG to meet air quality requirements and goals.

REPORTING REQUIREMENTS

Award recipients must commit to submitting quarterly reports through 2013, and semi-annual reports on the use of funded technologies for the duration of the project Activity Life. Public award recipients must also fulfill the annual compliance verification requirements of the Clean Fleet Vehicle Policy for the Activity Life, if applicable. Reporting may include, but is not limited to, information such as hours of operation, mileage, fuel use, and location(s) of operation.

CHECKLIST

All of the items listed below need to be "in hand" by March 16, 2012 at 5:00 pm Central Time for a project to be deemed complete.

- "Finalized" Online Application

- Project Detail Spreadsheet for each Project Type
- Cost Estimate(s)
- Fleet Turnover Schedule
- Supplemental Materials (if applicable)

Note: If the applicant is applying for funding for more than one model of school bus, cost estimates must be submitted for each type of bus.

When uploading required documentation, applicants must use the naming convention below to ensure documents are properly received. If this naming convention is not used, the contents will be assumed anonymous and may be deleted. “MetroplexISD” is used as the example applicant name.

If uploading multiple items in a category, include a number at the end of each file name, beginning with “1”.

Example: MetroplexISD_project1.xls, MetroplexISD_project2.xls

Uploaded Item	Example File Name
Compressed Folder	MetroplexISD.zip

Items in Compressed Folder	Acceptable Format	Example File Name
Project Detail Spreadsheet(s)	Microsoft Excel (.xls, .xlsx)	MetroplexISD_project
Cost Estimate For Each Project Type	Portable Document Format or any Image file-type (.pdf, .tif, .jpg, .gif)	MetroplexISD_costestimate
Fleet Turnover Schedule	Any Microsoft Office Suite Document, Portable Document Format, or any Image file-type (.doc, .xls, .pdf, .tif, .jpg, .gif)	MetroplexISD_fleetschedule
EPA/CARB Certification Document(s) (if applicable)	Portable Document Format or any Image file-type (.pdf, .tif, .jpg, .gif)	MetroplexISD_cert
Any Other Supplemental Information	Portable Document Format or any Image file-type (.pdf, .tif, .jpg, .gif)	MetroplexISD_suppl

REFERENCES

¹ California Environmental Protection Agency, Air Resources Board, *Staff Report: Proposed 2005-2006 Lower-Emissions School Bus Program Guidelines and Funding Allocation*. 01/24/06. www.arb.ca.gov/msprog/schoolbus/2006/stfrpt.pdf. 04/02/07.

² Environmental Protection Agency, *Region 2’s School Bus Study Supports Idling Reduction in a Big Way*, 02/13/08. <http://www.epa.gov/region2/cleanschoolbus/study.htm>.

APPENDIX A: NCTCOG Third Party Procurement Procedures

Overview

These procedures establish standards and guidelines for the North Central Texas Council of Governments' (NCTCOG) subgrantees for procurement of goods and services through Third Party Contracts, in accordance with 49 CFR Part 18.36 and 40 CFR Part 31.36.¹ These procedures have been developed to ensure fair, open, and competitive opportunities for all parties involved in the procurement. In order to assist NCTCOG's subgrantees in complying with federal procurement requirements, NCTCOG will publish these procedures as part of calls for projects to make potential applicants aware of these requirements in advance of submitting applications to NCTCOG for funding consideration. In addition, NCTCOG will periodically hold workshops on procurement and other compliance requirements to assist subgrantees in meeting these objectives.

Compliance with Federal Regulations

Subgrantees shall comply with applicable federal, State, and local laws and regulations, and conform to the standards set forth in 49 CFR Part 18.36 or applicable governing standards published by the awarding agency. These guidelines apply to purchases for contractual services, commodities, and equipment funded with federal and State funds.

Use of Lower-Tier Subgrantees

If the provisions of a NCTCOG agreement allow a lower-tier subgrantee to manage and administer NCTCOG supported projects, the lower-tier subgrantee must also comply with applicable federal, State, and local laws, and all guidelines established by the applicable funding agency.

Conflict of Interest

There can be no conflict of interest, real or apparent, in the award or administration of a contract supported by federal funds. The subgrantee shall maintain a written code or standards of conduct which shall govern the performance of their officers, employees, or agents engaged in the award and administration of contracts supported by federal funds.

Contract Administration System

Subgrantees will maintain a contract administration system which ensures that contractors perform in accordance with the terms, conditions, and specifications of their contracts and purchase orders.

Open and Fair Competition

All procurement transactions shall be conducted in a manner that provides maximum open and fair competition consistent with 49 CFR Part 18.36 or applicable federal law. Procurement procedures shall not restrict or eliminate competition. Examples of what is considered to be restrictive of competition include, but are not limited to, the following:

- Placing unreasonable requirements on firms/service providers/vendors/consultants in order for them to qualify to do business;
- Placing geographical preferences in the evaluation of bids or proposals;
- Noncompetitive practices between firms/service providers;
- Organization conflicts of interest;
- Requiring unnecessary experience and excessive bonding requirements; and,
- Any arbitrary action in the procurement process.

¹ UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS; Subpart C, Post-Award Requirements; Changes, Property, and Subawards under the United States Department of Transportation regulations. These procedures are written to comply with grant management standards for all federal agencies (e.g. Environmental Protection Agency, Department of Energy, etc...) as well as subgrantees funded with State funds.

Written Procurement Policies

The subgrantee shall have written procurement procedures and may adopt by reference procedural requirements of 49 CFR Part 18.36 or applicable federal law.

Procurement Guidelines

NCTCOG, in reviewing subgrantee procurement procedures and policies, will determine consistency with 49 CFR Part 18.36 or the applicable federal law regulating procurement. Stated therein are the governing regulations and implementing guidelines for all procurement activity undertaken with grant funds. Some of those items, with particular applicability to NCTCOG grants, are:

Procurement Standards

1. Subgrantees will maintain a contract administration system which ensures that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.
2. Procedures will allow for analysis of the most economical approach in purchasing, including lease versus purchase alternatives. Each proposed procurement must be reviewed to avoid the purchase of unnecessary or duplicative items.
3. Subgrantees will make awards only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.
4. Subgrantees will maintain records sufficient to detail the significant history of procurement.
5. These standards do not relieve the subgrantee of any contractual responsibilities under its NCTCOG contracts. The subgrantee is responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual administrative issues arising out of any procurement entered in support of a NCTCOG grant. These include, but are not limited to, source evaluation, protests, disputes, and claims.

Method of Procurement²

All procurement transactions shall be made by one of the following methods:

1. PROCUREMENT BY SMALL PURCHASE PROCEDURES

For procurement of services, supplies, or other property with an aggregate cost of least \$100,000³, written price or rate quotations shall be obtained from at least two qualified sources. The aggregate sum of all items being purchased is considered one purchase.

Purchases under \$3,000

Purchases which do not involve the expenditure of at least \$3,000, exclusive of freight or shipping charges, may be made without advertising or otherwise requesting competitive quotes; provided, however, that nothing contained in this paragraph shall be construed to prohibit any agency or governing authority from establishing procedures which require competitive quotes on purchases under \$3,000.

Purchases under \$100,000

Purchases which involve the expenditure of at least \$3,000 but not more than \$100,000, exclusive of freight and shipping charges, may be made from the lowest and best vendor without publishing or

²Explicit federal and State regulations apply to each procurement method. Subgrantees may proceed with procurement activities only after careful study of the regulations reveals all requirements have been met.

³ This purchase threshold is to be utilized for subgrantee procurements with federal funds. Separate thresholds may be permitted or required under State law for State funded grants.

posting advertisements for bids, provided at least two competitive written quotes have been obtained. The term "competitive written quotes" means a quote submitted on a quote form furnished by the subgrantee and signed by authorized personnel representing the vendor, or a quote submitted on a vendor's letterhead or quote form signed by authorized personnel representing the vendor. NCTCOG may request copies of quotes to ensure compliance with this provision as a condition of reimbursement.

2. PROCUREMENT BY SEALED BIDS

Purchases over \$100,000

Public advertisement once each week for two consecutive weeks for competitive sealed bids is required for all purchases that exceed \$100,000. Bids may not be due less than seven working days following the date the last advertisement appears in the public forum.

Purchases that involve expenditure of more than \$100,000, exclusive of freight and shipping charges shall be made from the lowest and best bidder after publicly advertising for competitive sealed bids once each week for two consecutive weeks. The date, as published, for the bid opening, shall not be less than seven working days after the published notice has been completed. The notice shall state the time and place at which bids shall be received; types of supplies, and/or equipment to be purchased, and the contact person. If plans or specifications are not published, notice should state where copies may be obtained. Specifications shall be written so as not to exclude any supplier.

Procurements over \$100,000 by sealed bid must be submitted to NCTCOG for review and approval 30 days prior to initiating the procurement. NCTCOG reserves the right to deny reimbursement upon failure to comply with the approved procurement process or failure to adequately address NCTCOG's comments concerning the proposed procurement process.

3. PROCUREMENT BY COMPETITIVE PROPOSALS

Purchases over \$100,000

Formally publicizing a request for proposals which normally results in conducting competitive negotiation with more than one source submitting an offer. This method is generally used when conditions are not appropriate for the use of sealed bids. All evaluation factors and their relative importance will be identified. There will be procedures for technical evaluations of the proposal and selection of an awardee. Awards are made to the proposal most advantageous to the program, with price and other factors considered.

Procurements over \$100,000 competitive proposal must be submitted to NCTCOG for review and approval 30 days prior to initiating the procurement. NCTCOG reserves the right to deny reimbursement upon failure to comply with the approved procurement process or failure to adequately address NCTCOG's comments concerning the proposed procurement process.

4. SOLE SOURCE PROCUREMENT

Noncompetitive items are items available from one source only. In connection with the purchase of noncompetitive items only available from one source, a certification of the conditions and circumstances requiring the purchase shall be filed by the subgrantee with the appropriate NCTCOG project manager. Upon receipt by the NCTCOG project manager, the certification will be forwarded to the appropriate NCTCOG personnel for approval of the request.

Only after receiving authorization from NCTCOG will the purchase be deemed a sole source procurement. All authorizations must be received prior to any procurement transactions. The appropriate NCTCOG personnel may authorize a sole source procurement under the conditions defined in State law, provided that the sole source procurement shall be made according to the established purchasing rules and regulations and shall not be made so as to circumvent the competitive purchasing requirements.

5. PURCHASES UNDER GOVERNMENTAL COOPERATIVE PURCHASING PROGRAMS

Eligible entities that can purchase under State contracts or other governmental cooperative purchasing programs can do so without prior approval or obtaining written quotes. All other purchases must follow the guidelines outlined in the Contracting Procurement Procedures.

6. EMERGENCY PROCUREMENT

NCTCOG may approve an emergency procurement under the conditions defined in federal and State law, provided such emergency procurement shall be made with such competition as is practicable under the circumstance.

Subgrantee Files

Each subgrantee must maintain adequate files to support any purchases made. A copy of the quotes that were obtained (purchases between \$3,000.00 and \$100,000.00) or a copy of the legal notice must also be on file to support the choice of lowest and/or best bid. The subgrantee must provide adequate justification if the purchase is not awarded to lowest and/or best bidder.

APPENDIX B.1: Subgrantee Procurement Review Checklist

Grant Name and Number: _____
 Subgrantee: _____
 Subgrantee Federal Award: _____
 Total Project Cost: _____

Procurement Requirements	Yes	No
1. Does the subgrantee have a written code of conduct for procurement officials?		
2. Does the subgrantee have a contract administration system in place to ensure compliance with procurement procedures?		
3. Are the following documents included in the subgrantee's contract administration system?		
a. Written Procurement History (including rationale used for procurement method, selection process, methodology used to select vendor)		
b. Solicitation Documentation		
c. Purchase Order / Contract		
d. Invoice		
e. Proof of Payment		
f. NCTCOG Pre-approval (if applicable)		

Item(s) Procured	Purchase Price	Procurement Method Used*

List of Procurement Methods:

1. Purchases < \$3,000
2. Purchases > \$3,000 but < \$100,000
3. Purchases > \$100,000 – Sealed Bid (Publicly advertised, requires NCTCOG pre-approval)
4. Purchases > \$100,000 – Competitive Proposal (Publicly advertised, requires NCTCOG pre-approval)
5. Sole Source (Requires NCTCOG pre-approval)
6. Emergency Procurement (Requires NCTCOG pre-approval)
7. State Contract
8. Other – Please Explain

Notes:

APPENDIX B.2: Procurement Requirements of 40 CFR 31.36

40 CFR 31.36 Procurement.

(see <http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&rgn=div5&view=text&node=40:1.0.1.2.29&idno=40#40:1.0.1.2.29.3.15.14>)

(a) *States.* When procuring property and services under a grant, a State will follow the same policies and procedures it uses for procurements from its non-federal funds. The State will ensure that every purchase order or other contract includes any clauses required by federal statutes and executive orders and their implementing regulations. Other grantees and subgrantees will follow paragraphs (b) through (i) in this section.

(b) *Procurement standards.* (1) Grantees and subgrantees will use their own procurement procedures which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable federal law, the standards identified in this section, and if applicable, §31.38.

(2) Grantees and subgrantees will maintain a contract administration system which ensures that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

(3) Grantees and subgrantees will 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 or agent of the grantee or subgrantee shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

(i) The employee, officer or agent,

(ii) Any member of his immediate family,

(iii) His or her partner, or

(iv) An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. The grantee's or subgrantee's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements. Grantee and subgrantees 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 or conduct will provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the grantee's and subgrantee's officers, employees, or agents, or by contractors or their agents. The awarding agency may in regulation provide additional prohibitions relative to real, apparent, or potential conflicts of interest.

(4) Grantee and subgrantee procedures will provide for a review of proposed procurements to avoid purchase 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.

(5) To foster greater economy and efficiency, grantees and subgrantees are encouraged to enter into State and local intergovernmental agreements for procurement or use of common goods and services.

(6) Grantees and subgrantees are encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

(7) Grantees and subgrantees are encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.

(8) Grantees and subgrantees will make awards only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

(9) Grantees and subgrantees will maintain records sufficient to detail the significant history of a procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

(10) Grantees and subgrantees will use time and material type contracts only—

(i) After a determination that no other contract is suitable, and

(ii) If the contract includes a ceiling price that the contractor exceeds at its own risk.

(11) Grantees and subgrantees alone will be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to source evaluation, protests, disputes, and claims. These standards do not relieve the grantee or subgrantee of any contractual responsibilities under its contracts. Federal agencies will not substitute their judgment for that of the grantee or subgrantee unless the matter is primarily a Federal concern. Violations of law will be referred to the local, State, or Federal authority having proper jurisdiction.

(12) Grantees and subgrantees will have protest procedures to handle and resolve disputes relating to their procurements and shall in all instances disclose information regarding the protest to the awarding agency. A protestor must exhaust all administrative remedies with the grantee and subgrantee before pursuing a protest with the Federal agency. Reviews of protests by the Federal agency will be limited to:

(i) Violations of Federal law or regulations and the standards of this section (violations of State or local law will be under the jurisdiction of State or local authorities) and

(ii) Violations of the grantee's or subgrantee's protest procedures for failure to review a complaint or protest. Protests received by the Federal agency other than those specified above will be referred to the grantee or subgrantee.

(c) *Competition.* (1) All procurement transactions will be conducted in a manner providing full and open competition consistent with the standards of §31.36. Some of the situations considered to be restrictive of competition include but are not limited to:

(i) Placing unreasonable requirements on firms in order for them to qualify to do business,

(ii) Requiring unnecessary experience and excessive bonding,

(iii) Noncompetitive pricing practices between firms or between affiliated companies,

(iv) Noncompetitive awards to consultants that are on retainer contracts,

(v) Organizational conflicts of interest,

(vi) Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance of other relevant requirements of the procurement, and

(vii) Any arbitrary action in the procurement process.

(2) Grantees and subgrantees will 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. Nothing in this section preempts State licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criteria provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

(3) Grantees will have written selection procedures for procurement transactions. These procedures will ensure that all solicitations:

(i) 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 which 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. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equal” description may be used as a means to define the performance or other salient requirements of a procurement. The specific features of the named brand which must be met by offerors shall be clearly stated; and

(ii) Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

(4) Grantees and subgrantees will ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, grantees and subgrantees will not preclude potential bidders from qualifying during the solicitation period.

(5) Construction grants awarded under Title II of the Clean Water Act are subject to the following “Buy American” requirements in paragraphs (c)(5) (i)–(iii) of this section. Section 215 of the Clean Water Act requires that contractors give preference to the use of domestic material in the construction of EPA-funded treatment works.

(i) Contractors must use domestic construction materials in preference to nondomestic material if it is priced no more than 6 percent higher than the bid or offered price of the nondomestic material, including all costs of delivery to the construction site and any applicable duty, whether or not assessed. The grantee will normally base the computations on prices and costs in effect on the date of opening bids or proposals.

(ii) The award official may waive the Buy American provision based on factors the award official considers relevant, including:

(A) Such use is not in the public interest;

(B) The cost is unreasonable;

(C) The Agency's available resources are not sufficient to implement the provision, subject to the Deputy Administrator's concurrence;

(D) The articles, materials or supplies of the class or kind to be used or the articles, materials or supplies from which they are manufactured are not mined, produced or manufactured in the United States in sufficient and reasonably available commercial quantities or satisfactory quality for the particular project; or

(E) Application of this provision is contrary to multilateral government procurement agreements, subject to the Deputy Administrator's concurrence.

(iii) All bidding documents, subagreements, and, if appropriate, requests for proposals must contain the following "Buy American" provision: In accordance with section 215 of the Clean Water Act (33 U.S.C. 1251 *et seq.*) and implementing EPA regulations, the contractor agrees that preference will be given to domestic construction materials by the contractor, subcontractors, materialmen and suppliers in the performance of this subagreement.

(d) *Methods of procurement to be followed—* (1) *Procurement by small purchase procedures.* Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that 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.

(2) *Procurement by sealed bids* (formal advertising). Bids are publicly solicited and a firm-fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction, if the conditions in 31.36(d)(2)(i) apply.

(i) 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;

(B) Two or more responsible bidders are willing and able to compete effectively and for the business; and

(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.

(ii) If sealed bids are used, the following requirements apply:

(A) The invitation for bids will be publicly advertised and bids shall be solicited from an adequate number of known suppliers, providing them sufficient time prior to the date set for opening the bids;

(B) The invitation for bids, which will include any specifications and pertinent attachments, shall define the items or services in order for the bidder to properly respond;

(C) All bids will be publicly opened at the time and place prescribed in the invitation for bids;

(D) A firm fixed-price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, 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

(E) Any or all bids may be rejected if there is a sound documented reason.

(3) Procurement by *competitive proposals*. The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed-price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

(i) Requests for proposals will be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals shall be honored to the maximum extent practical;

(ii) Proposals will be solicited from an adequate number of qualified sources;

(iii) Grantees and subgrantees will have a method for conducting technical evaluations of the proposals received and for selecting awardees;

(iv) Awards will be made to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and

(v) Grantees and subgrantees may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

(4) Procurement by *noncompetitive proposals* is procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate.

(i) 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 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) The awarding agency authorizes noncompetitive proposals; or

(D) After solicitation of a number of sources, competition is determined inadequate.

(ii) Cost analysis, i.e., verifying the proposed cost data, the projections of the data, and the evaluation of the specific elements of costs and profits, is required.

(iii) Grantees and subgrantees may be required to submit the proposed procurement to the awarding agency for pre-award review in accordance with paragraph (g) of this section.

(e) [Reserved]

(f) *Contract cost and price.* (1) Grantees and subgrantees 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, but as a starting point, grantees must make independent estimates before receiving bids or proposals. A cost analysis must be performed when the offeror is required to submit the elements of his estimated cost, e.g., under professional, consulting, and architectural engineering services contracts. A cost analysis will be necessary when adequate price competition is lacking, and for sole source procurements, including contract modifications or change orders, unless price reasonableness can be established on the basis of a catalog or market price of a commercial product sold in substantial quantities to the general public or based on prices set by law or regulation. A price analysis will be used in all other instances to determine the reasonableness of the proposed contract price.

(2) Grantees and subgrantees will negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration will be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

(3) Costs or prices based on estimated costs for contracts under grants will be allowable only to the extent that costs incurred or cost estimates included in negotiated prices are consistent with Federal cost principles (see §31.22). Grantees may reference their own cost principles that comply with the applicable Federal cost principles.

(4) The cost plus a percentage of cost and percentage of construction cost methods of contracting shall not be used.

(g) *Awarding agency review.* (1) Grantees and subgrantees must make available, upon request of the awarding agency, technical specifications on proposed procurements where the awarding agency believes such review is needed to ensure that the item and/or service specified is the one being proposed for purchase. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the grantee or subgrantee desires to have the review accomplished after a solicitation has been developed, the awarding agency may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.

(2) Grantees and subgrantees must on request make available for awarding agency pre-award review procurement documents, such as requests for proposals or invitations for bids, independent cost estimates, etc. when:

(i) A grantee's or subgrantee's procurement procedures or operation fails to comply with the procurement standards in this section; or

(ii) The procurement is expected to exceed the simplified acquisition threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation; or

(iii) The procurement, which is expected to exceed the simplified acquisition threshold, specifies a "brand name" product; or

(iv) The proposed award is more than the simplified acquisition threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or

(v) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the simplified acquisition threshold.

(3) A grantee or subgrantee will be exempt from the pre-award review in paragraph (g)(2) of this section if the awarding agency determines that its procurement systems comply with the standards of this section.

(i) A grantee or subgrantee may request that its procurement system be reviewed by the awarding agency to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews shall occur where there is a continuous high-dollar funding, and third-party contracts are awarded on a regular basis.

(ii) A grantee or subgrantee may self-certify its procurement system. Such self-certification shall not limit the awarding agency's right to survey the system. Under a self-certification procedure, awarding agencies may wish to rely on written assurances from the grantee or subgrantee that it is complying with these standards. A grantee or subgrantee will cite specific procedures, regulations, standards, etc., as being in compliance with these requirements and have its system available for review.

(h) *Bonding requirements.* For construction or facility improvement contracts or subcontracts exceeding the simplified acquisition threshold, the awarding agency may accept the bonding policy and requirements of the grantee or subgrantee provided the awarding agency has made a determination that the awarding agency's interest is adequately protected. If such a determination has not been made, the minimum requirements shall be as follows:

(1) *A bid guarantee from each bidder equivalent to five 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.

(2) *A performance bond on the part of the contractor for 100 percent of the contract price.* A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

(3) *A payment bond on the part of the contractor for 100 percent of the contract price.* 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.

(i) *Contract provisions.* A grantee's and subgrantee's contracts must contain provisions in paragraph (i) of this section. Federal agencies are permitted to require changes, remedies, changed conditions, access and records retention, suspension of work, and other clauses approved by the Office of Federal Procurement Policy.

(1) Administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate. (Contracts more than the simplified acquisition threshold)

(2) 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. (All contracts in excess of \$10,000)

(3) Compliance with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR chapter 60). (All construction contracts awarded in excess of \$10,000 by grantees and their contractors or subgrantees)

(4) Compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR part 3). (All contracts and subgrants for construction or repair)

(5) Compliance with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor regulations (29 CFR part 5). (Construction contracts in excess of \$2000 awarded by grantees and subgrantees when required by Federal grant program legislation)

(6) Compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR part 5). (Construction contracts awarded by grantees and subgrantees in excess of \$2000, and in excess of \$2500 for other contracts which involve the employment of mechanics or laborers)

(7) Notice of awarding agency requirements and regulations pertaining to reporting.

(8) Notice of awarding agency requirements and regulations pertaining to patent rights with respect to any discovery or invention which arises or is developed in the course of or under such contract.

(9) Awarding agency requirements and regulations pertaining to copyrights and rights in data.

(10) Access by the grantee, the subgrantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.

(11) Retention of all required records for three years after grantees or subgrantees make final payments and all other pending matters are closed.

(12) Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Contracts, subcontracts, and subgrants of amounts in excess of \$100,000)

(13) Mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

(j) *Payment to consultants.* (1) EPA will limit its participation in the salary rate (excluding overhead) paid to individual consultants retained by grantees or by a grantee's contractors or subcontractors to the maximum daily rate for a GS-18. (Grantees may, however, pay consultants more than this amount). This limitation applies to consultation services of designated individuals with specialized skills who are paid at a daily or hourly rate. This rate does not include transportation and subsistence costs for travel performed; grantees will pay these in accordance with their normal travel reimbursement practices. (Pub. L. 99-591).

(2) Subagreements with firms for services which are awarded using the procurement requirements in this part are not affected by this limitation.

(k) *Use of the same architect or engineer during construction.* (1) If the grantee is satisfied with the qualifications and performance of the architect or engineer who provided any or all of the facilities planning or design services for a waste-water treatment works project and wishes to retain that firm or individual during construction of the project, it may do so without further public notice and evaluation of qualifications, provided:

(i) The grantee received a facilities planning (Step 1) or design grant (Step 2), and selected the architect or engineer in accordance with EPA's procurement regulations in effect when EPA awarded the grant; or

(ii) The award official approves noncompetitive procurement under §31.36(d)(4) for reasons other than simply using the same individual or firm that provided facilities planning or design services for the project; or

(iii) The grantee attests that:

(A) The initial request for proposals clearly stated the possibility that the firm or individual selected could be awarded a subagreement for services during construction; and

(B) The firm or individual was selected for facilities planning or design services in accordance with procedures specified in this section.

(C) No employee, officer or agent of the grantee, any member of their immediate families, or their partners have financial or other interest in the firm selected for award; and

(D) None of the grantee's officers, employees or agents solicited or accepted gratuities, favors or anything of monetary value from contractors or other parties to subagreements.

(2) However, if the grantee uses the procedures in paragraph (k)(1) of this section to retain an architect or engineer, any Step 3 subagreements between the architect or engineer and the grantee must meet all of the other procurement provisions in §31.36.

[53 FR 8068 and 8087, Mar. 11, 1988, and amended at 53 FR 8075, Mar. 11, 1988; 60 FR 19639, 19644, Apr. 19, 1995; 66 FR 3794, Jan. 16, 2001; 73 FR 15913, Mar. 26, 2008]