



CONTRACTING AND PROCUREMENT

POLICIES, PRACTICES AND PROCEDURES MANUAL

The San Luis Obispo Regional Transit Authority (RTA) will maintain sound contracting and procurement practices in accordance with all Federal, state and local laws and direct its financial resources towards meeting the RTA's long-term goals.

The RTA will cultivate and further develop programs to ensure its long-term ability necessary to provide the level and quality of service required by the public.

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CHAPTER 1 PURPOSE AND INTRODUCTION

The San Luis Obispo Regional Transit Authority (RTA) has the major responsibility of the operation of a public transportation system and the programming of transit projects. All contracts are awarded by the RTA's Finance Department in accordance with this Contracting and Procurement Policies, Practices and Procedures Manual, and is responsible for identifying the needs of the RTA and originating the procurement package for supplying those needs. The RTA receives transit funding from the Federal government and the State of California, as well as other regional and local agencies and local contributions. The RTA will follow standard public agency contract law as set forth in California Government and Public Contract Codes for procurements that are funded with state or local revenues and do not have any Federal funding. The RTA is further committed to meeting all requirements in [FTA Circular 4220.1\(F\)](#) and its successors for procurements that involve Federal funds. These procurement policies and procedures are consistent with Federal regulations and the laws of the State of California.

The purpose of these policies and procedures is to set forth the procurement methods and establish standards for obtaining goods and services, including construction, professional, and architectural/engineering (A/E) services necessary for the operation of the RTA. These procedures include guidelines for the solicitation, award and administration of formally advertised contracts, as well as the consultant selection, negotiation, award and administration of competitively negotiated and A/E contracts.

The procurement procedures are designed to:

- Instill public confidence in the transit procurement process of the RTA;
- Ensure fair and equitable treatment of all vendors who seek to do business with the RTA;
- Ensure maximum open and free competition in the expenditure of public funds; and
- Provide the safeguards to maintain a procurement system of quality and integrity.

To the extent possible, this manual establishes the RTA's procurement processes, which cover the procurement of, accounting for, and disposal of surplus property (materials, equipment, buses, etc.). On items not covered in the RTA Contracting and Procurement Policies, Practices and Procedures Manual, staff will consult with county and legal counsel for guidance. It also provides policy guidance on the procurement and contract administration of professional and other services.

This manual further provides general guidelines in the conduct of procurements that require compliance with Federal and/or state contracting standards.

A. Step-by-Step Guide

Step 1: The Project Manager (PM) will work with the Grants and Finance Manager (GFM) to determine the following:

- Project scope;
- Expected cost of the procurement;
- Funding source(s) and whether the procurement is already budgeted; and
- Procurement type.

Step 2: For procurement type, the PM and GFM will refer to the policies described herein. Any questions regarding the procurement process will be discussed with the Executive Director (ED), and/or legal counsel to ensure that the policies are being followed and adhered to.

Step 3: The GFM, or his/her designee will be responsible for the administration of the procurement, which includes attaching the proper boiler plate agreements and Federal procurement clauses and obtaining the required review and approval(s), before initiating the procurement process.

Step 4: Over a certain threshold, approval of the procurement by the Board.

Step 5: Upon completion of the procurement process, execution of the contract prior to a notice-to-proceed, or initiation-of-work.

B. Delegated Authority and Method of Procurement

The proper delegated authority for execution of binding contracts with external entities is necessary to minimize financial, legal, operational, compliance-related risks for the benefit of the RTA.

The Board of Directors authorizes and delegates to the Executive Director, or his/her designee, the authority and responsibility to approved purchase orders, contracts, amendments and change orders on behalf of the RTA. A summary of the types of procurement methods and solicitation thresholds is provided below in Table 1. The RTA Procurement Policy Matrix is provided as Appendix A.

Table 1: Delegated Authority and Method of Procurement Matrix

Contract Threshold	Method of Procurement	Required Approval Level	Notes
Construction greater than \$2,000	Micro Purchase / Simple Acquisition Purchase (RFP / IFB / Sole Source)	Deputy Director / CFO	Davis-Bacon prevailing wage requirements, will apply to construction contracts exceeding FTA thresholds, even though the recipient uses micro-purchase procurement procedures.
Less than \$10,000 (FTA)	Micro Purchase	Deputy Director / CFO	
Between \$10,000 and \$50,000	Simple Acquisition Purchase (RFP / IFB / Sole Source)	Executive Director	These purchases are exempt from FTA's Buy America requirements, Davis-Bacon prevailing wage requirements,
Greater than \$50,000	Simple Acquisition Purchase (RFP / IFB / Sole Source)	Board of Directors	
Change Order (less than \$50,000 or 10% or original contract price)	Change Orders	Executive Director	Modifications to contracts or purchase orders which represent no change in the scope of the character of material or services provided in the original contract or purchase order may be approved by the ED or PM if the cumulative dollar value of the modification and the original contract amount are within the ED award authority.
Change Order (greater than \$50,000 or 10% or original contract price)	Change Orders	Board of Directors	
Claims Settlement (less than \$10,000)	Claims	Executive Director	
Claims Settlement (greater than \$10,000)	Claims	Board of Directors	

CHAPTER 3 PROCUREMENT & CONTRACTING RESPONSIBILITIES

The Board of Directors: The RTA Board of Directors (Board) is responsible for governing the operation of the agency including all procurement policies that serve as a basis upon which procurement procedures can be developed.

Executive Director: The Executive Director (ED) will be responsible, in accordance with the best 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, non-competitive/sole source evaluations, protests, disputes, and claims. All protests shall be processed in accordance with the RTA's protest procedures (Chapter 8). The ED or the Deputy Director/CFO designee shall execute contracts, purchase orders, modifications, and supplemental agreements in accordance with established thresholds. The ED or designee shall implement the policies herein set forth. This manual serves to complement applicable higher authority (e.g., Federal, state, and local government) procurement regulations and serves to provide staff with a primary frame of reference for all matters pertaining to the RTA's procurement and contracting activities.

Deputy Director/Chief Financial Officer: The Deputy Director/Chief Financial Officer (CFO) or designee has primary responsibility for ensuring that the procurement process is in accordance with FTA requirements, legal requirements and the RTA policy, as interpreted by Legal Counsel. The Deputy Director/CFO, as the ED designee, shall execute contracts, purchase orders, modifications, and supplemental agreements in accordance with established thresholds. The Deputy Director/CFO will serve as the agency's DBE Liaison Officer (DEBELO) and will track DBE information as it relates to the RTA's procurements. The Deputy Director/CFO is responsible for establishing material management policies and issuing instructions concerning the storage, distribution, and disposal of surplus property.

Grants and Finance Manager: As designated by the Deputy Director/CFO, the Grants and Finance Manager (GFM) is responsible for ensuring that the contract agreements, purchase orders, modifications, supplemental agreements and procurement processes are in accordance with FTA requirements, legal requirements and the RTA policy. The GFM is responsible for procurement documentation and ensuring compliance with Federal, state and local requirements.

RTA Staff/Project Manager: All personnel involved in procuring goods and services on behalf of the RTA should be familiar with the procedures and requirements of the RTA, general project management principles and state and Federal procurement requirements and are instructed to follow the RTA Contracting and Procurement Policies, Practices and Procedures Manual, as well as instructions issued by the Deputy Director/CFO regarding the storage, distribution, and issuance of material. A Project Manager (PM) will be the RTA staff member directly responsible for the daily technical administration of a contract including monitoring the contractor in its performance of the contract and performing those functions as specified. The PM is the technical expert to assist in ensuring contractor compliance with technical requirements of the contract; approving / disapproving the technical acceptability and timeliness of the work completed and the invoices submitted by the contractor for payment.

A. Procurement Responsibility

The Deputy Director/CFO or GFM designee is responsible for:

- Maintaining all official contract files.
- Managing procurements and coordinating with the Project Manager (PM) to ensure procurement files meet local, state, and Federal requirements.
- Updating these procurement procedures on an as-needed basis.
- Ensuring that a clear and accurate specification / scope of work is developed for each procurement.
- Determining that contract prices are fair and reasonable.
- Ensuring all applicable requirements of Federal law, Federal regulations and circulars, California law, and all other applicable procedures have been met.
- Ensuring that contractors receive impartial, fair, and equitable treatment in accordance with the policies specified in this manual.
- Ensuring that sufficient unencumbered funds are available for obligation for each contract.
- Writing, preparing and assembling contract documents; obtaining necessary pre-solicitation approvals; advertising Request for Proposals and Invitation for Bids, issuing amendments, obtaining post-bid opening approvals for award, conducting investigations of proposed Contractor's past performance, conducting consultant selection meetings for negotiated contracts and conducting negotiations,
- Serving as lead of pre-bid and pre-proposal conferences, qualification hearings and proposal evaluation meetings; for conducting contract negotiation sessions
- Managing the non-technical aspects of post award contract administration including negotiation of modifications, claims, and supplemental agreements; and for maintaining procurement files.
- Consulting with PMs to monitor contractor's performance, and managing termination for default or convenience procedures whenever the need arises.

The Project Manager (PM) is responsible for:

- Developing clear and accurate specification / scope of work for each procurement.
- Soliciting quotes, bids and proposals directly or working with the Deputy Director/CFO or GFM on such solicitation.
- Attending pre-bid and pre-proposal conferences, qualification hearings and proposal evaluation meetings as the technical expert.
- Being the technical expert to assist in ensuring contractor compliance with technical requirements of the contract.
- Reporting of warranted equipment malfunctions or failures, or any problems with the contractor's performance and works with contractor for remedial action.
 - Should the contractor fail to respond in a timely or adequate manner to rectify any problem, the PM will notify the Deputy Director/CFO or designee of apparent breach of the contract

- Communicating with Deputy Director/CFO or designee, including necessary meetings, conferences, and written communications.
- Approving / disapproving the technical acceptability, timeliness of the work completed and contractor invoices for payment.

CHAPTER 4 PROCUREMENT & CONTRACTING POLICIES

A. Federal Procurement Requirements and State Law

The formation of contracts shall conform to the Federal Transit Administration's (FTA) Third Party Contracting Guidance, as contained in [FTA Circular 4220.1F](#), and applicable California State law, whichever is more stringent. Any subsequent changes or amendments to either the Circular or State law after the effective date of this Contracting and Procurement Policies, Practices and Procedures Manual shall be incorporated into said Policy by this reference.

The FTA requires certain contract provisions for each procurement depending on the nature, type and value of the procurement. As the Federal government makes regular updates to procurement guidelines and the clauses required in such, the RTA will reference the required clauses tables provided by the FTA either through the [Best Practices Procurement Manual \(BPPM\)](#) or the Triennial Review Program latest workshop workbook available through the FTA website. (Appendix B – 2024 FTA Procurement Clauses)

The FTA Circular 4220 and Best Practices Procurement Manual applies to all FTA grantees and sub-grantees that contract with outside sources under the RTA-assisted programs. The RTA Contracting and Procurement Policies, Practices and Procedures Manual shall incorporate State and Local procurement procedures as well as reflect applicable Federal law identified in the Circular.

The RTA annually "self- certifies" that its procurement system meets FTA requirements and has the technical capacity to comply with Federal procurement requirements.

B. Standards of Conduct and Conflict of Interest Policies

All RTA personnel involved in procurements will comply with any Code of Conduct or Conflict of Interest requirements set forth in applicable State or Federal law including but not limited to the requirements of [23 CFR 172.7](#) (Appendix C - Conflict of Interest Declaration Form Evaluation Committee). The RTA's procurement code of conduct is as follows:

No Board member, officer, employee or agent of the RTA shall participate in the selection, award or administration of a contract (including purchase orders) if a conflict of interest, real or apparent, would be involved. Such a conflict would arise if any prospective vendor or contractor (or any subcontractor) considered for an award is:

- A Board member,
- An RTA employee, or
- Has a family member, domestic or business partner that is employed by the RTA

No Board Member, officer, employee or agent of the RTA who participates in the procurement, management, or administration of contracts shall, directly or indirectly, shall:

- Have a financial or other personal interest in any contract made or influenced by him/her in his/her official capacity.
- Solicit or accept gratuities, favors, or anything of monetary value from consultants, vendors, contractors, or potential consultants, or parties to sub-agreements in excess of the applicable gift limit established by the Fair Political Practices Commission (“FPPC”). Gifts shall be reported consistent with [FPPC](#) requirements.
- Violate these standards. Violations may result in sanctions, or other forms of discipline (oral, written) up to and including suspension, demotion, or termination. This policy is in addition to any discipline statutorily available for those participating in the selection, award or administration of a contract if a conflict of interest exists. ([Cal. Gov. Code, §§ 81000-91014.](#))

C. [Contract Administration Guidelines](#)

- The RTA will originate the purchase order, or contract agreement.
- Once a purchase order/contract has been fully executed, a Notice-to-Proceed will be issued to initiate contract work.
- All agreements will be assigned a purchase order number or contract agreement number, which must be referred to on all orders and the contractor’s invoices.
- The PM and GFM will approve all invoices before payment is issued.
- A contract amendment is necessary for a change in scope of work, term or compensation and must be completed before additional work or payment is authorized.
- A copy of the procurement documents must be included with the contract files, including an explanation of the process used in procuring the goods or services.

D. [Equal Employment Opportunity/Affirmative Action](#)

All procurement documents issued by the RTA require all interested vendors to certify that the vendor:

- Does not discriminate against any employee or applicant for employment, because of race, religion, sex, age, creed, color, disability or national origin;
- Is compliant with all Federal, state and local laws regarding fair employment practices, and non-discrimination in employment; and
- Agrees to demonstrate positively the principle of equal opportunity in employment.

E. [Disadvantaged Business Enterprise](#)

The RTA has adopted a Disadvantaged Business Enterprise (DBE) Program as required by the Code of Federal Regulations (CFR) at 49 CFR Part 26. The DBE Program sets goals for DBE participation in Federally-funded contracts, monitors these contracts to determine DBE participation, and reports DBE participation to FTA. The RTA informs its contractors of these goals and monitors DBE participation by subcontractors.

DBEs shall have the opportunity to compete fairly for contracts financed in whole or in part with Federal funds. Accordingly, all the RTA procurements funded with Federal funds may include, as

appropriate, the use of goals for the procurement of all classes of goods and services, as set forth in the RTA's DBE program.

The DBE Liaison Officer (DEBELO) will track DBE information as it relates to the RTA's DBE program, goals and reporting. The DEBELO will implement procedures to seek involvement by DBEs and Small Business Enterprises (SBE), irrespective of whether they qualify as DBE/SBE, in the RTA's procurement processes to the fullest extent practicable.

Examples of procedures that may achieve that involvement may include:

- Including qualified disadvantaged, small, women-owned, and minority businesses on solicitation lists;
- Assuring that disadvantaged, small, women-owned, and minority businesses are solicited whenever they are potential sources;
- When economically feasible, dividing total requirements into small tasks or quantities so as to permit maximum disadvantaged, small, women-owned, and minority business participation;
- Where the requirement permits, establishing delivery schedules which will encourage participation by disadvantaged, small, women-owned, and minority businesses.
- Using the services and assistance of the Disadvantaged Business Enterprise, Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
- Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed above.

F. Buy America

Buy America regulations require that all steel, iron, and manufactured products used in the project are produced in the United States. Solicitations for steel, iron, and manufactured products must contain a Buy America certification, unless the procurement is subject to a general waiver, small purchase waiver, or other applicable FTA authorized waiver. Buy America requirements also apply to capital leases for rolling stock and related equipment. Buy America rules apply to utility work that is within the scope and budget of an FTA funded project. Buy America applies to the entire project, including contracts funded with non-Federal funds.

Buy America statute applies to:

- All purchases of steel, iron, and manufactured products greater than \$150,000, regardless of whether they involve capital, operating, or planning funds
- Contractors and subcontractors if the contract or subcontract is more than \$150,000, including labor and options
- Purchases made using an intergovernmental agreement and jointly purchased manufactured products

For all procurements of more than \$150,000, the RTA shall include in its bid or request for proposal an appropriate notice of the Buy America provision. Such specifications shall require, as a condition of responsiveness, that the bidder or offeror submit with the bid or offer a

completed Buy America certificate in accordance with [49 CFR §§ 661.6 or 661.12](#) of this part, as appropriate.

G. Warranty of the Work

The contractor, Architect and/or Engineer (A/E), shall warrant to the RTA that all materials and equipment furnished under the contract will be of highest quality and new unless otherwise specified by the RTA, free from faults and defects and in conformance with the contract documents. The work must be of safe, substantial and durable construction in all respects. Any work not conforming to these standards shall be considered defective. The contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

The contractor guarantees the work against defective materials or faulty workmanship for a minimum period of one (1) year after final payment by the RTA and shall replace or repair any defective materials or equipment or faulty workmanship during the period of the guarantee at no cost to the RTA.

H. Public Records Act

All bids and proposals received become the exclusive property of the RTA. At such time as a contract award is recommended to the RTA Board, all bids and proposals become a matter of public record and shall be regarded as public records, with the exception of those elements in each proposal which are trade secrets as that term is defined in California Government Code 6254.7 and which are so marked as “TRADE SECRET,” “CONFIDENTIAL” OR “PROPRIETARY.” The RTA shall not in any way be liable or responsible for the disclosure of any such records or portions thereof, including, with limitation, those so marked if disclosure is deemed required by law or by an order of a court.

CHAPTER 5 PROCUREMENT & CONTRACTING METHODS

Open Competition

All procurement transactions will be conducted in a manner providing full and open competition. To ensure the most efficient and economic purchases, proposed procurements are reviewed by the RTA staff to avoid purchase of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase.

When appropriate, an analysis will be made of lease vs. purchase alternatives to determine the most economical approach.

To ensure sufficient procurement planning and forecasting, consideration should be given to establishing contractual relationships with suppliers and obtaining bids on repetitive purchase items—for example, vehicle parts or bus shelter repairs—to ensure competitive pricing based upon economies of scale. Grouping and bidding these purchases will ensure favorable pricing based on economies of scale. Blanket agreements will be considered if this procurement type is determined to lead to a decrease in prices or an increase in efficiency.

Restrictive Competition

Some situations may be considered to be restrictive of competition if the solicitation includes;

- Unreasonable requirements placed on firms in order for them to qualify to do business;
- Unnecessary experience and excessive bonding requirements;
- Noncompetitive pricing practices between firms or between affiliated companies;
- Noncompetitive award to any person or firm on retainer contracts;
- Organizational conflicts of interest. An organizational conflict of interest means that because of other activities, relationships, or contracts, a contractor is unable or potentially unable, to render impartial assistance or advice to the RTA; a contractor's objectivity in performing the contract work is or might be otherwise impaired; or a contractor has an unfair competitive advantage.
- The specification of only a brand name product without listing its salient characteristics and not allowing an equal product to be offered;
- Exclusionary or discriminatory specifications; and
- Any arbitrary action in the procurement process.
- Bonding requirements for construction contracts that do not exceed one hundred fifty thousand (\$150,000)

Methods of Procurement

There are several types of procurement methods depending on the complexity and value of the project. In compliance with Federal, state and local requirements, the RTA has developed a process for determining the most appropriate method of procurement. The Procurement Checklist (Appendix D) streamlines the decision-making process and identifies the appropriate method; ensuring the procurement file contains all the required documentation.

A. Cooperative Procurement

When circumstances warrant, the RTA may attempt to fill requirements through a cooperative purchasing agreement (without independent bids or quotations) with the State of California, the California Association of Coordinated Transportation (CalACT), or with other appropriate public agencies. In such cases, the RTA will ensure all state and Federal requirements are met.

B. Piggybacking

"Piggybacking" is an assignment of existing contract rights to purchase supplies, equipment, or services.

Piggybacking is permissible when the solicitation document and resultant contract contain an assignability clause that provides for the assignment of all or a portion of the specified deliverables as originally advertised, competed, evaluated, and awarded. If the supplies were solicited, competed and awarded through the use of an Indefinite Delivery Indefinite Quantity (IDIQ) contract, then both the solicitation and contract award must contain both a minimum and maximum quantity that represent the reasonably foreseeable needs of the party(s) to the solicitation and contract. If two or more parties jointly solicit and award an IDIQ contract, then

there must be a total minimum and maximum. Piggy-backing requires preapproval of an assignment by the RTA and approval of the contractor or consultant.

C. Micro-Purchase

Purchases below \$10,000 may be made without obtaining competitive quotations if it is determined by the GFM that the price is fair and reasonable. The GFM or designee will document how this determination was derived. The Davis-Bacon Act applies to public works/construction contracts exceeding \$2,000.

D. Simple Acquisition (Small) Purchases

For goods and other professional service procurements between \$10,000 and \$250,000, three (3) bids shall be solicited. Oral quotes will be accepted with written confirmation received in 24 hours. Appropriate documentation, including but not limited to a list of the vendors contacted, a fair and reasonable price determination and the quotes received, shall be filed with the project documentation.

E. Construction Purchases exceeding \$2,000

FTA-funded capital projects, exceeding \$2,000, must follow FTA's Construction and Project Management Guidelines:

<https://www.transit.dot.gov/funding/procurement/fta-project-and-construction-management-guidelines-2016>

F. Sealed Bids/Invitation for Bid (IFB)

For sealed bidding to be feasible, the following conditions should be present:

- A complete, adequate, and realistic specification or purchase description is available;
- Two or more responsible bidders are willing and able to compete effectively for the business;
- The procurement lends itself to a firm-fixed price contract and the selection of the successful bidder can be made principally on the basis of price; and
- No discussion with bidders is needed.

If this procurement method is used, the following requirements apply:

- The invitation for bids will be publicly advertised and bids shall be solicited from an adequate number of known suppliers, providing them sufficient time to prepare bids prior to the date set for opening the bids;
- The invitation for bids, which will include any specifications and pertinent attachments, shall define the items or services sought in order for the bidder to properly respond;
- All bids will be publicly opened at the time and place prescribed in the invitation for bids;
- A firm fixed-price contract award will be made in writing to the lowest responsive and responsible bidder.
- Any or all bids may be rejected if there is a sound documented business reason. This method of procurement may be utilized for the purchase of vehicles and equipment. The sealed bid method is the preferred method for procuring construction if the conditions in paragraph (1) above apply.

The procurement files will contain an explanation for the choice of the procurement process being used.

G. Request for Qualifications (RFQ) / Request for Proposals (RFP)

The RFQ/RFP competitive procurement process is used when conditions are not appropriate for the use of a sealed IFB. The latter is generally the case in the purchase of services such as lease agreements, maintenance and service contracts, rental contracts, and professional service contracts.

The RFQ/RFP process for goods and professional services is coordinated by GFM with the assistance of the PM and will include latest Federal and state procedures for the procurement process. This is a competitive negotiated procurement process that requires evaluation of offeror's proposed costs and understanding of the contract performance requirements in accordance with established evaluation criteria. The competitive negotiated procurement process does not require award to the lowest offeror.

H. Architectural/Engineering Services Request for Qualifications (RFQ)

The Architectural/Engineering (A/E) RFQ process will be used for the procurement of architectural and/or engineering services and related services such as program management, construction management, feasibility studies, preliminary engineering, design, architectural, engineering, surveying, mapping, or related services.

Following this method, competitors' qualifications are evaluated and the most qualified competitor is selected subject to negotiation of fair and reasonable compensation. Under this method, the RTA may not consider price as an evaluation factor in determining the most qualified offeror. Negotiation is conducted with only the most qualified offeror. This method, where price cannot be used as an evaluation factor and negotiations are conducted with only the most qualified offeror, can only be used in procurement of the above services. This method of procurement cannot be used to obtain other types of services even through a firm that provides the above types of services are also potential sources to perform other services.

I. Design-Bid-Build

The design-bid-build procurement method requires separate contracts for design services and for construction.

- **Design Services.** For design services, the recipient must use qualifications-based procurement procedures, in compliance with applicable Federal, State and local law and regulations.
- **Construction.** Because the recipient may not use qualifications-based procurement procedures for the actual construction, alteration or repair of real property, the recipient generally must use competitive procedures for the construction. These may include sealed bidding or competitive negotiation procurement methods, as appropriate.

J. Design-Build

The design-build procurement method consists of contracting for design and construction simultaneously with contract award to a single contractor, consortium, joint venture, team, or partnership that will be responsible for both the project's design and construction. FTA's

enabling legislation expressly authorizes the use of FTA capital assistance to support design-build projects “after the recipient complies with Government requirements,” [49 U.S.C. Section 5325\(d\)\(2\)](#). Design-Build, requires that the type of procurement method used be based on the estimated value of the design vs. construction work. If the estimated value of the construction work exceeds the value of the design work, then a qualifications-based method may not be used to award the contract. The RTA shall determine the contract value by separating the various contract activities to be undertaken and classify them as design or construction, and then calculate the estimated total value of each.

- **Design Services.** In the less usual circumstance in which the cost of most work to be performed will consist of costs for architectural and engineering, program management, construction management, feasibility studies, preliminary engineering, design, architectural engineering, surveying, mapping, or related A&E services, FTA expects the recipient to use qualifications-based procurement procedures based on the [“Brooks Act,” 40 U.S.C. Sections 1101-1104 \(3.e\)](#).
- **Construction.** When construction costs are predominant, unless FTA determines otherwise in writing, qualifications-based procurement procedures may not be used to acquire architectural engineering, program management, construction management, feasibility studies, preliminary engineering, design, architectural and engineering, surveying, mapping, or related A&E services. However, a qualifications method may be used to determine prospective contractors capable of performing the project and thus qualified to submit detailed technical and price proposals.

K. Non-Competitive Procurements (Sole Source)

Sole source procurement is a purchase accomplished through solicitation or acceptance of a proposal from only one source; or, if after solicitation of a number of sources competition is determined inadequate. A sole source purchase must be documented as to the reasons why only one supplier is acceptable.

Sole source procurement 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:

- The item is available only from a single source;
- The public exigency or emergency (i.e., a threat to public health, welfare, safety, property or other substantial loss to the RTA, or a situation requiring immediate action by the RTA, as determined by the RTA) for the requirement will not permit a delay resulting from competitive solicitation;
- FTA authorizes noncompetitive negotiations; or
- After solicitation of a number of sources, competition is determined inadequate

The reason(s) and justification for the sole source procurement and the cost analysis will be documented in the procurement file. The RTA will certify in writing:

- That such manufacturer or supplier is the only source for such item; and
- that the price of such item is not higher than the price for such item by like customers.

- A cost analysis was conducted before an award of sole source contract.

L. Emergency Procurements

Emergency procurements (defined as purchases immediately necessary for the preservation of life or property, or to prevent an immediate termination of a critical the RTA function or activity) will be handled immediately and expedited as required. The ED has the authority to approve the purchase of all goods and services in emergency conditions. If the ED is unavailable to authorize an emergency procurement, the ED may provide the Deputy Director/CFO with the necessary authorization. Upon completion of the emergency procurement, the Deputy Director/CFO will document the actions taken and execute a proper requisition, and provide a report to the Board at its next regular meeting.

M. Restricted or Prohibited Contracting Methods

The following contract types are prohibited or restricted, as dictated by [2 CFR Part 200- Uniform Guidance](#):

Cost Plus a Percentage of Cost

The use of Cost Plus a Percentage of Cost contracts is expressly prohibited as a method of contracting.

Time and Materials

The RTA staff may exercise the use of a Time and Materials contract only after determining that no other contract type is suitable and if the contract specifies a ceiling price that the contractor may not exceed except at its own risk.

Tag-on

“Tag-on” is defined as the addition of work (supplies, equipment or services) that is beyond the scope of the original contract and is considered a “cardinal change”. The use of a tag-on is prohibited and applies to the original buyer as well as to others. “In scope” changes are not considered a tag-on.

CHAPTER 6 PROCUREMENT & CONTRACTING PROCEDURES

A. Independent Cost Estimate

An independent cost estimate (ICE) shall be performed on all FTA, state, local and general funded procurements prior to receiving bids or proposals. The process for obtaining a cost estimate will depend on the type of procurement being pursued. For example, a cost estimate for a micro purchase (see explanation below) may only involve phone calls to obtain price quotes; while a cost estimate for the procurement of a commuter bus would require a more involved process to assess the market and to develop a reasonably accurate estimate. The cost required to research and prepare the estimate should not outweigh the potential benefits of the estimate. An ICE can be obtained from different sources including the following:

- Published competitive prices
- Results of competitive procurements

- Estimates by in-house estimators
- Outside estimators

The ICE will be included in the procurement records. Construction bids will require an engineering estimate as part of the plans, specifications and engineering phase of the project can be accepted as the ICE.

B. System for Award Management (Excluded Parties List)

Any procurement, contract or vendor contract exceeding \$25,000 is subject to the Federal System for Award Management (SAM).

After all qualified bids or quotes have been opened the SAM database will be referenced, which contains all businesses that have been barred or suspended from receiving Federal funds or participating in Federal contracts. The GFM will perform a SAM business name search on each of the businesses for specific procurements.

If a business reference returns a suspended/debarment listing on the SAM, a printout of the web page will be included in the procurement file, while a second copy will be forwarded to the bidding business with a notice that they have been removed from consideration in the procurement.

If the SAM search returns no suspended/debarment listing and is registered current/active, a copy of the webpage, showing the positive and active registration, will be made and included in the procurement file.

C. Business Licenses

Prior to final award or completion of a draft contract, the GFM designee will confirm that the business has a valid business license.

If the business has a valid license, a license number will be recorded in the procurement file and, if a contract, will be forwarded to counsel with the draft contract.

If the business does not have a valid business license, they will be contacted to discuss their services and the process for obtaining a license.

D. Reasonableness of Price – Price Analysis or Cost Analysis

In all Federal, state, local, and general funded procurements, a price analysis or cost analysis shall be used to determine the reasonableness of the bid price. The RTA will follow the [Federal Acquisition Regulations \(FAR\) Part 31 Contracting Cost Principles and Procedures](#) for determining allowable and reasonable costs. (Appendix E – Price Reasonableness Determination)

Price Analysis

“Price analysis” is the process of examining and evaluating a prospective price without evaluation of the separate cost elements or proposed profit of the prospective supplier. A price analysis will normally be used to evaluate reasonableness.

Price analysis may be accomplished through one or more of the following activities:

- Comparison of prices received in a bidding situation;
- The comparison of prior quotations and contract prices with current quotations for the same or similar end items (to provide a suitable basis for comparison, appropriate allowances must be made for differences in such factors as specifications, quantities ordered, time for delivery, etc.);
- The use of "yardsticks" (such as dollars per pound, per horsepower, or other units) to point out apparent gross inconsistencies which should be subjected to greater pricing inquiry;
- The comparison of prices set forth in published price lists issued on a competitive basis, published market prices of commodities, and similar indicators, with discount or rebate arrangements;
- The comparison of proposed prices with estimates of cost independently developed by personnel within the RTA; or,
- The comparison of prices paid by other users (government or commercial) of the same or similar items to the proposed prices.

Cost Analysis

If a valid price analysis cannot be completed, a "cost analysis" of a bid price may be conducted. A cost analysis reviews and analyzes the contractor's cost or pricing data and of the factors applied in projection from the data to the estimated costs in order to form an opinion on the degree to which the contractor's proposed costs represent the cost of performance of the contract, assuming reasonable economy and efficiency.

As compared to price analysis, a cost analysis involves a more detailed review of the contractor's/offeree's proposal.

Cost analysis may be accomplished through the following:

- Verify contractor's cost data.
- Evaluate specific elements of costs and project these elements to determine the effect on prices of such factors as:
 - The necessity for certain costs;
 - The reasonableness of amounts estimated for the necessary costs;
 - Allowances for contingencies; and
 - The basis used for allocations of particular overhead costs to the proposed contract.
- When the necessary data is available, compare the contractor's estimated cost with:
 - Actual costs previously incurred by the contractor;
 - The contractor's last prior cost estimate for the same or similar estimates;
 - Current cost estimates from other possible sources; and prior estimates or historical costs of other contractors manufacturing the same or similar items.

- Forecasting future trends in costs from historical experience:
 - In periods of either rising or declining costs, an adequate cost analysis must include some evaluation of the trends.
 - In cases involving recently developed, complex equipment, even in periods of relative price stability, trend analysis of basic labor and materials costs should be undertaken.

If only one bid is received, the sole bidder must cooperate with the RTA as necessary in order for its bid to be considered for award. A new solicitation of bids may be made if the single bid price appears unreasonable or if no determination is made as to the reasonableness of the single bid.

E. Profit

The RTA 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.

F. Best Value

"Best Value" is a selection process in which proposals contain both price and qualitative components, and award is based upon a combination of price and qualitative considerations. Qualitative considerations may include technical design, technical approach, quality of proposed personnel, and/or management plan. The award selection is based upon consideration of a combination of technical and price factors to determine the offer deemed most advantageous and of the greatest value to the agency.

G. Geographic Preference

The RTA shall conduct procurements in a manner that prohibits the use of statutorily or administratively imposed in-state or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. This does not preempt State licensing laws.

Geographic location may be a selection criterion in procurements for architectural and engineering (A & E) services provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

H. Use of Brand Name

"Brand Name" means a name of a product or service that is limited to the product or service produced or controlled by one private entity or by a closed group of private entities. Brand names may include trademarks, manufacturer names, or model names or numbers that are associated with only one manufacturer.

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 characteristics of procurement. The specific features of the named brand which must be met by offerors shall be clearly stated.

In instances where the naming of brand products results in a restraint on competition, the RTA will process the solicitation as a sole source (non-competitive) procurement.

I. Options

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

Evaluation of Options

The option quantities or periods contained in the contractor's bid or offer must be evaluated in order to determine contract award. When options have not been evaluated as part of the award, the exercise of such options will be considered sole source procurement.

Exercise of Options

- The RTA must ensure that the exercise of an option is in accordance with the terms and conditions of the option stated in the initial contract awarded.
- Options must be evaluated at the time of the original bid, and the cost basis for exercising the option must be established at the time of the bid.
- Option prices and/or conditions cannot be negotiated at the time of the exercise of an option.
- An option may not be exercised unless the RTA has determined that the option price is better than prices available in the market or that the option is the more advantageous offer at the time the option is exercised.

J. Advance Payments

The RTA does not authorize and will not participate in funding payments to a contractor prior to the incurrence of costs except as allowed by FTA requirements. There is no prohibition on the RTA's use of local match funds for advance payments. However, advance payments made with local funds before a grant has been awarded, or before the issuance of a letter of no prejudice or other pre-award authority, are ineligible for reimbursement.

K. Progress Payments

Progress payments (also called advanced or milestone payments) are payments made to the contractor prior to the completion of all contract work. The FTA encourages the use of advance and progress payments to support a reasonable payment schedule for large capital purchases, such as rolling stock procurements, to reduce the financing costs that transit agencies ultimately pay as part of the contract price. The RTA may use progress payments provided the following requirements are followed:

Rolling Stock

The RTA may use local funds for progress payments before receiving an FTA grant and maintain eligibility for FTA reimbursement after grant award if it has pre-award authority, or use FTA funds after FTA grant award, provided that:

- Sufficient written documentation is provided to substantiate the basis for making progress payments and the completion of the work for which progress payments are requested. With respect to documentation for rolling stock contracts, tying progress payments to the percentage of completion of the contract is not permissible. Permissible bases for rolling stock progress payments includes the completion of discrete activities necessary to the performance of the contract.
- Adequate security from the contractor is obtained for the progress payments to safeguard against performance difficulties. For a rolling stock procurement, adequate security typically takes the form of a performance bond or letter of credit, but may be other types of security negotiated by the parties, such as receipt of title to the vehicles at an appropriate point in the manufacturing process. The RTA will consult with its FTA Regional Office on the adequacy of alternative forms of security other than a bond or letter of credit.

Construction

- Progress payments are only made to the contractor for costs incurred in the performance of the contract.
- The RTA must obtain adequate security for progress payments. Adequate security may include taking title, letter of credit or equivalent means to protect the RTA's interest in the progress payment.

L. Bonding Requirements (Construction)

Bid Bond

A bid bond provides a guarantee, both financial and through legal recourse, to the RTA that the bidder will complete the work if selected. The existence of a bid bond gives assurance that the bidder has the financial means to accept the job for the price quoted in the bid and guarantees compensation to the RTA if the bidder fails to begin or complete a project. Bid bonds are often used for construction projects. If a contractor does not comply with the bid guarantee, the bid may be rejected.

The amount claimed against a bid bond typically covers the difference between the lowest bid and the next lowest bid. A bid bond must be issued by a fully qualified surety company acceptable to the RTA and listed as a company currently authorized under [31 CFR Part 223](#) as possessing a Certificate of Authority as described thereunder.

Performance Bond

A bid bond is replaced by a performance bond when a bid is accepted and the contractor proceeds to work on the project. A performance bond protects the RTA from a contractor's failure to perform according to the contractual terms. If the work done by a contractor is poor or

defective, the contractor may be held liable and a claim can be made against the performance bond to provide compensation for the cost of redoing or correcting the work.

- The penal amount of performance bonds shall be 100 percent of the original contract price, unless the RTA determines that a lesser amount would be adequate for the protection of the RTA.
- The RTA may require additional performance bond protection when a contract price is increased. The increase in protection shall generally equal 100 percent of the increase in contract price. The RTA may secure additional protection by directing the contractor to increase the penal amount of the existing bond or to obtain an additional bond.

Advance Payment Bond

The contractor may be required to obtain an advance payment bond if the contract contains an advance payment provision and a performance bond is not furnished. The RTA shall determine the amount of the advance payment bond necessary to protect the agency.

CHAPTER 7 SEALED BID AND RFQ/RFP EVALUATIONS

A. Sealed Bid Evaluation Process

Recording of Bids

To assist in having a complete record of the procurement history, the bid number, bid opening date and time, general description of the procurement item, names of bidders, prices bid, and any other information required for bid evaluation, shall be kept in the official procurement file and be available for public inspection. When the items are too numerous to warrant the recording of all bids completely, an entry shall be made of the invitation number, opening date and time, general description of the procurement items, and the total price bid where definite quantities are involved.

The official record shall be completed as soon as practical after bids have been opened and read aloud. The GFM shall be responsible for maintaining files of these records and abstracts for goods and service, professional services, and capital projects.

Tabulation of Bids

Bids shall be evaluated on the basis of responsiveness and responsibility indicated in the IFB. Award shall be made to the bidder submitting the lowest bid, unless the RTA determines that the bid is not responsive and/or the bidder is found to be not responsible.

Analysis of Limited Bid Response

If only one (1) bid has been received, the PM or GFM will contact non-bidding vendors to determine reasons for not bidding. The purpose of this examination is to ascertain and document the reason for the single bid. If the determination is that the IFB restricted competition, the procurement may be rebid. A price or cost analysis shall be performed to establish the reasonableness of the bid price before an award is made.

Determination of Responsiveness

Once the lowest bidder is determined, the RTA will determine if the bidder is responsive. In order for a bid to be acceptable, it must conform in all material respects to the requirements stated in the solicitation. Responsiveness is determined from the bid documents themselves.

Any bid which fails to conform to the essential requirements of the invitation for bids, such as specifications, delivery schedule, warranty, Federal procurement requirements, or the required bid documents, shall be rejected as non-responsive. The originals of all rejected bids, and any written findings with respect to such rejections, shall be preserved in the file relating to the procurement.

Responsible Bidder Evaluation

Before awarding the contract, the RTA shall determine that a prospective contractor is responsible and that prices are reasonable. Bidders may be asked to provide any information required to determine the responsibility of the bidder. A responsible bidder is one who meets the standards set forth below:

- Has adequate financial resources, or the ability to obtain such resources as required during performance of the contract.
- Is able to comply with the required or proposed delivery or performance schedule, taking into consideration all existing business commitments.
- Has a satisfactory record of performance. Contractors who are, or have been seriously deficient in current or recent contract performance, when the number of contracts and the extent of deficiency of each are considered, may be considered to be non-responsive bidders. Documented past unsatisfactory performance will ordinarily be sufficient to justify a finding of non-responsibility.
- Is otherwise qualified and eligible to receive an award under applicable laws and regulations.
- Has the necessary organization, experience, operational controls, and technical skills, or the ability to obtain them.
- Has the necessary production, construction, and technical equipment and facilities, or the ability to obtain them.

Evaluation of the responsibility of prospective contractors may be made based upon the following sources:

- A list of debarred, suspended or ineligible firms or individuals.
- From the prospective contractor's bids and proposals, replies to questionnaires, financial data such as balance sheets, profits and loss statements, cash forecasts, and financial histories of the contractor and affiliated concerns; current and past production records, list of tools, equipment, and facilities, written statements or commitments concerning financial assistance and subcontracting arrangements.
- Publications, including credit ratings, trade and financial journals, and business directories and registers may also be used.

- References such as suppliers, subcontractors, customers of the prospective contractor, banks and financial institutions, commercial credit agencies, other government agencies, purchasing and trade associations, and better business bureaus and chamber of commerce.
- Documented past performance on contracts with the RTA.

The procurement files will document the determination of responsive and responsible bidders.

B. RFQ/RFP Evaluation Process

Pre-qualified Contractor Lists

The RTA may issue a RFQ or RFP in order to create a pool of qualified consultants that will be placed on a “pre-qualified list” for future services or consulting contracts with the RTA. The RTA staff will ensure that all lists of pre-qualified persons, firms, or products that are used in acquiring supplies, equipment, and services are current and include enough qualified sources to ensure maximum full and open competition

Pre-qualified consultants will remain eligible for consideration and contract negotiation on an as-needed basis for three years from the pre-qualification notification date. This date may be extended by the RTA in its sole and absolute discretion for an additional two years for a total of five years. Pre-qualified consultants are not guaranteed a contract. The RTA reserves the right, in its sole discretion, to utilize other authorized procurement methods for services or consulting contracts and to not use the pre-qualified list process.

Issuance of RFQ/RFP Packet

The RFQ/RFP packet will include the following:

- *Instructions To Proposers:* General instructions concerning the proposal format, pre-contractual expenses, contract conditions, pre-proposal conferences, and other information.
- *Scope of Work:* Each RFQ/RFP will contain a statement or scope of work prepared by the PM which provides a clear and accurate description of the technical requirements for the materials, products, or services being produced. A statement or scope of work should only state the actual minimum needs of the RTA, and be developed in a manner designed to promote full and open competition. At a minimum, the statement or scope of work should address the following areas:
 - A detailed description of the work to be performed outlining various tasks or phases to be performed, and defining the limits of the proposed project;
 - A requirement for periodic reporting or progress on the project if the procurement involves consultant or professional services;
 - A proposed delivery schedule and proposed contract period.
- *Attachments:* Required forms to be completed by the proposer and submitted with the proposal.
- *Exhibits:* These can be documents which display key facts, specifications, maps, report formats, and other important information to clearly define the goods or services needed in order for the proposers to properly respond to the RFQ/RFP.

- *Evaluation Criteria:* Each RFQ/RFP will contain the criteria and method that will be used to select the successful proposer. If the selection is to be made by lowest price, that will be stated in the solicitation documentation. If the selection process will be a “best value” determination, the solicitation will state so and the relative significance of each criteria will also be included in the solicitation document.

An RFQ/RFP record will be maintained by the GFM in the procurement file and will contain the following information.

- Date and time RFQ/RFP packets are distributed.
- Names and addresses of registered vendors, entities receiving the RFQ/RFP, and if potential vendors attending a pre-proposal conference.
- Registered vendors are included in electronic bid notifications bid publications, issuance of addenda and provides a record for verification in cases of vendor protests and other issues.

Pre-Proposal Conference

A pre-proposal conference may be used as a means of briefing prospective proposers and explaining complicated specifications and requirements to them as early as possible after the RFQ/RFP has been issued and before the proposals are received. Any information distributed at the pre-proposal conference will be made available to all other prospective proposers in a reasonable time prior to the closing of the bid period, and a copy will be maintained in the procurement file. A roster of attendees at the pre-proposal conference will also be maintained in the procurement file as part of the control record.

Evaluation and Selection Process

Proposals submitted in response to the RFQ/RFP will be evaluated by an Evaluation Committee established by the RTA, in accordance with the criteria set forth in the RFQ/RFP. The Evaluation Committee may include various RTA staff and outside technical representatives. The Committee will be responsible for scoring the proposals and making a recommendation for award of the contract. Original scoring forms, or summary records of the Evaluation Committee scoring, will be maintained in the procurement file.

C. Architectural / Engineering Services RFQ Evaluations

Issuance of an “A/E” RFQ

A notice of an RFQ will be prepared by the GFM and will be advertised as a public notice in hard copy and electronic format on a website that is accessible by the public and vendor community. Additional sources for posting the A/E RFQ may include national and state print or online transit community publications.

Pre-proposal Conference

A pre-proposal conference may be used as a means of briefing prospective proposers and explaining complicated specifications and requirements to them as early as possible after the RFQ has been issued and before the proposals are received. Any information distributed at the pre-proposal conference will be made available to all other prospective proposers in a reasonable time prior to the closing of the bid period, and a copy will be maintained in the procurement file.

A roster of attendees at the pre-proposal conference will also be maintained in the procurement file.

Evaluation and Contract Negotiation

The steps to be used for proposal evaluation and contract negotiation for A/E and related services solicitations are as follows:

- A qualified evaluation committee shall be established by the PM to review eligible firms and all responses to an RFQ. The evaluation committee is briefed by the PM on the RTA procedures and instructed to maintain confidentiality about the proposal evaluation process.
- Evaluation Committee evaluates the firms based on:
 - Professional qualifications for performance of the required services;
 - Specialized experience and technical competence in the type work required;
 - Capacity to accomplish the work in the required time; and,
 - Past performance in terms of cost control, quality of work and compliance with performance schedules.
- Evaluation team ranks the proposers and, if necessary, holds discussions with the most highly qualified firms ("short list").
- Evaluation team prepares a selection report listing in order of preference, those firms that are considered to be the most highly qualified to perform the required services. The report should include a description of the discussions and evaluations by the team to allow the review of the basis upon which the recommendations were made.
- The final selection shall be made by the PM or his/her designee.
- A copy of the selection report will be maintained in the procurement file.

D. Consultant Selection

This procurement procedure usually involves a single step process with issuance of the RFP/RFQ to all interested consultants. For non-A&E consulting contracts, a cost proposal shall be part of the RFQ/RFP and the selection criteria. For A&E contracts, the cost proposal is not requested until the consultants have been final ranked based upon their submitted technical proposal.

Appoint Consultant Selection Committee

A consultant selection committee with a minimum of three (3) members shall oversee the consultant selection process. The committee reviews all materials submitted by consultants, develops a shortlist of qualified consultants, and develops a final ranking of the most qualified proposals. Representation on the committee includes the PM and subject matter experts from the project's functional area. The members should be familiar with the project/segment to be contracted out and with the local agency standards that will be used in the contract.

The RTA ensures that all committee members meet the conflict-of-interest requirements by completing and signing a conflict-of-interest statement prior to selection process initiation.

Develop Technical Criteria for Evaluation of Proposals

The PM is responsible for developing the technical criteria, and their relative importance which are used to evaluate and rank the consultant proposals. Geographical preference shall not be used as factor in the evaluation, ranking, and selection phase. All non-technical evaluation criteria, including DBE participation, shall not exceed 10 percent ([23 CFR 172.7\(a\)\(1\)\(iii\)\(D\)](#)). All price or cost related items which include, but are not limited to, cost proposals, direct salaries/wage rates, indirect cost rates, and other direct costs are prohibited from being used as evaluation criteria.

The criteria and relative weights must be included in the RFQ/RFP, and the same criteria and relative weights must be used in the evaluation sheets. Failure to include criteria and relative weights and to use the same criteria and weights during the evaluation will result in the contract costs being ineligible for Federal or state reimbursement

Develop Final Ranking and Notify Consultants of Results

The selection committee evaluates each proposal; interviews the three or more highest ranked consultants (short listed) if noted in solicitation; and develops a final ranking of the highest ranked consultants. All consultants that submitted proposals must be informed about the final ranking of consultants. It is important that all competing consultants receive the same information.

Most consultants will request information as to why they were not the highest ranked. The local agency may have an established procedure adopted for conducting debriefings but may also consider the following: The selection committee should keep notes as to why a particular consultant was not selected. When a consultant requests debriefing, the reasons for not being selected must be objective reasons. The consultant should not be compared to others and should not be provided with information about other consultants during this debriefing. Normally, the Contract Administrator does the debriefing; however, any member of the selection committee may be designated to do the debriefing.

Award of the Contract

Unless all bids are rejected, award shall be by written or electronic notice, within the time for acceptance specified in the bid or extension thereof, to the responsible and responsive bidder whose bid, conforming to all the material terms and conditions of the solicitation, is the lowest in price.

When award is made to other than the lowest bidder, the RTA will document in the procurement files the reason for not choosing the lowest bid.

Project Completion

All original documentation related to each procurement such as the Board authorization, solicitation, ICE, background data, evaluation criteria and scores, meeting reports/notes, as well as the logs documenting bid opening dates and bid receipt dates will be saved in the procurement folders. For audit purposes, complete procurement files will be maintained for a minimum of five (5) years after the project is closed out and completed unless a different time period is mandated by a funding entity.

CHAPTER 8 PROTEST PROCEDURES

Protest procedures will be included directly or by reference in all procurements. The most common types of protest that might be filed before a bid opening would include one based upon restrictive specifications, or alleged improprieties in any type of solicitation that is apparent prior to the scheduled bid opening.

The RTA will grant the protesting firm a fair review, and allow up to ten (10) working days to review or appeal a decision provided no state or Federal law or regulation has been violated. It is the intent of the RTA to resolve all protests at the local level. The RTA Bid Protest Procedures are provided in Appendix F.

CHAPTER 9 SURPLUS EQUIPMENT/SUPPLIES DISPOSAL STANDARDS

When equipment or supplies are no longer needed for RTA services and are declared “surplus,” it shall be disposed of according to the policies and procedures outlined below. Disposal should follow competitive sales procedures (where applicable) to ensure the highest possible return.

Service life of equipment is determined by acceptable industry standards for such equipment; the service life of FTA-funded rolling stock is determined in [FTA Circular 9030.1E Urbanized Area Formula Program](#). These standards will be used when determining how surplus equipment or supplies will be disposed and if reimbursement to FTA would be required.

The RTA will ensure that its disposal policy meets FTA requirements as outlined in [FTA Circular 5010.1D Grants Management](#). Records of any disposal of equipment or supplies that were originally procured using FTA funds will be maintained according to the record-keeping requirements. The RTA Surplus Equipment and Supplies Disposal Policy Standard is provided in Appendix G.

APPENDICES

- A. Procurement Policy Matrix
- B. FTA Contracting Clauses
- C. Conflict of Interest
- D. Procurement Checklist
- E. Determination of Price Reasonableness
- F. Protest Procedures
- G. Surplus Equipment and Supplies Disposal Policy Standard

**APPENDIX A
Procurement Policy Matrix**

Solicitation Threshold	Signature Authority
All Amounts Above \$50,000	Board Authorized
\$10,000 to \$50,000	Executive Director
Below \$10,000	Deputy Director/CFO
\$1,000 or below	Delegated RTA Department Head

Amount Federal & Non-Federal Funds	FTA Procurement Type	Authorization	Procurement Requirements	DBE/SBE	Basis for Award	Secured By
\$2,000 or greater	Construction	Deputy Director/CFO (up to \$10,000) Executive Director (\$10,001 to \$50,000) Board Authorization (\$50,001 or greater)	Informal. To the extent practicable, at least 3 quotes required. Fair and reasonable price determination must be made for each procurement.	All opportunities shall be reviewed with the Civil Rights Officer for DBE/SBE utilization per RTA DBE Policy	For federally-funded projects, determine and document that the price is fair and reasonable and how this determination was derived. Davis-Bacon Employee Protection requirements apply.	PO and/or Written Contract
\$10,000 or less <i>(Except for Construction Contracts exceeding \$2,000)</i>	Micro-Purchase	Deputy Director / CFO or Delegated Dept Head	Informal. One (1) quote (Two (2) desired if practical).	All opportunities shall be reviewed with the Civil Rights Officer for DBE/SBE utilization per RTA DBE Policy	For federally-funded projects, determine and document that the price is fair and reasonable and how this determination was derived.	PO
Greater than \$10,000	Non-Competitive Proposal (Sole-Source)	Executive Director (\$10,001 to \$50,000) Board Authorization (\$50,001 or greater)	Sole Source Justification. May be used only when item available from a single source, public exigency or emergency, or after	All opportunities shall be reviewed with the Civil Rights Officer for DBE/SBE utilization per	For federally-funded projects, determine and document that the price is fair and reasonable and how this determination was derived. Confirmation of non Debarment &	PO and/or Written Contract

			solicitation competition determined inadequate. Justification must be documented.	RTA DBE Policy	Suspension for contracts greater than \$25,000. Lobbying Certification for contracts greater than \$100,000.	
\$10,001 to \$150,000	Simple Acquisition (Small) Purchase (FTA Threshold \$10,000 - \$250,000)	Executive Director (up to \$50,000) Board Authorization (\$50,001 or greater)	Informal. To the extent practicable, at least 3 quotes required. Fair and reasonable price determination must be made for each procurement.	All opportunities shall be reviewed with the Civil Rights Officer for DBE/SBE utilization per RTA DBE Policy.	Lowest price if an Invitation for Bids (IFB) or Request for Proposal/Quotations (RFP/RFQ) was employed. For federally-funded projects, determine and document that the price is fair and reasonable and how this determination was derived. Confirmation of non Debarment & Suspension for contracts greater than \$25,000. Lobbying Certification for contracts greater than \$100,000.	PO and/or Written Contract
\$150,001 or more	Simple Acquisition (Small) Purchase (FTA Threshold \$10,000 - \$250,000)	Executive Director (up to \$50,000) Board Authorization (\$50,001 or greater)	Formal Solicitation: Sealed Bids (IFB) or Competitive Proposals (RFP). Fair and reasonable price determination must be made for each procurement.	Solicitations shall be reviewed with the Civil Rights Officer for DBE/SBE utilization per RTA DBE Policy.	Lowest responsible bidder or in District's discretion, responsible bidder that provides the Best Value. Confirmation of non Debarment & Suspension for contracts greater than \$25,000. Lobbying Certification for contracts greater than \$100,000. Buy America provisions applied to contracts greater than \$150,000.	Written Contract

\$250,000 or more	Non-Competitive (Emergency)	Board Authorization	Emergency declaration: Invitation for Bids or Request for Proposals. Sealed bids. Fair and reasonable price determination must be made for each procurement.	Solicitations shall be reviewed with the Civil Rights Officer for DBE/SBE utilization per RTA DBE Policy.	Lowest responsible bidder or at the Board's discretion, responsible bidder that provides Best Value. Confirmation of non Debarment & Suspension for contracts greater than \$25,000. Lobbying Certification for contracts greater than \$100,000. Buy America provisions applied to contracts greater than \$150,000.	Written Contract
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Procurement of Architectural and Engineering Services

(Including Construction Management Services, Repair or Remodeling of RTA Facilities)

Amount Federal and Non-Federal Funds	Procurement Requirements	DBE/SBE	Basis for Award	Secured By
\$5,000 - \$250,000	Minimum of three (3) price quotes. A fair and reasonable price determination must be made for each procurement.	Solicitations shall be reviewed by the Civil Rights Officer. Formal advertisement for the solicitation explicitly states the District's commitment to using DBE/SBE's in all procurements.	Negotiations are conducted with the most qualified offeror. Only after failing to agree with the most qualified offeror will negotiations with successive offerors in descending order be conducted until a contract award can be made. Confirmation of non Debarment & Suspension for contracts greater than \$25,000. Lobbying Certification for contracts greater than \$100,000. Buy America provisions applied to contracts greater than \$150,000.	PO and/or Written Contract
\$250,000 or more	Qualifications Based – Formal RFQ. A fair and reasonable price determination must be made for each procurement.			Written Contract

APPENDIX B
FEDERALLY REQUIRED CONTRACT CLAUSES

The successful contractor is expected to be familiar with and meet all stated or otherwise applicable federal clauses and standards.

The RTA is responsible for evaluating these requirements for relevance and applicability to each procurement.

Listed below is the matrix of FTA required contract clauses and federal certifications.

Applicability of Third Party Contract Provisions
(Excluding micro-purchases, except for construction contracts over \$2,000)

CLAUSE	TYPE OF PROCUREMENT				
	Professional Services/A&E	Operations/ Management/ Recipients	Revenue Rolling Stock	Construction	Materials & Supplies
No Federal government obligations to third-parties by use of a disclaimer	All	All	All	All	All
Program fraud and false or fraudulent statements and related acts	All	All	All	All	All
Access to Records	All	All	All	All	All
Federal changes	All	All	All	All	All
Civil Rights (EEO, Title VI & ADA)	All	All	All	All	All
Incorporation of FTA Terms	All	All	All	All	All
Energy Conservation	All	All	All	All	All
Termination Provisions (not required of states)	>\$10,000	>\$10,000	>\$10,000	>\$10,000	>\$10,000
Debarment and Suspension	>\$25,000	>\$25,000	>\$25,000	>\$25,000	>\$25,000
Buy America			>\$150,000	>\$150,000	>\$150,000 (for steel, iron, manufactured products)
Provisions for resolution of disputes, breaches or other litigation	>\$250,000	>\$250,000	>\$250,000	>\$250,000	>\$250,000
Lobbying	>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000
Clean Air	>\$150,000	>\$150,000	>\$150,000	>\$150,000	>\$150,000

CLAUSE	TYPE OF PROCUREMENT				
	Professional Services/A&E	Operations/ Management/ Recipients	Revenue Rolling Stock	Construction	Materials & Supplies
Clean Water	>\$150,000	>\$150,000	>\$150,000	>\$150,000	>\$150,000
Cargo Preference			Involving property that may be transported by ocean vessel	Involving property that may be transported by ocean vessel	Involving property that may be transported by ocean vessel
Fly America	Involving foreign transport or travel by air	Involving foreign transport or travel by air	Involving foreign transport or travel by air	Involving foreign transport or travel by air	Involving foreign transport or travel by air
Davis Bacon Act				>\$2,000 (including ferry vessels)	
Copeland Anti-Kickback Act				Section 1: All Section 2: >\$2,000 (including ferry vessels)	
Contract Work Hours & Safety Standards Act		>\$100,000	>\$100,000	>\$100,000 (including ferry vessels)	
Bonding (not required of states)				>\$250,000 (including ferry vessels)	
Seismic Safety	A&E for new Buildings & additions			New buildings & additions	
Transit Employee Protective Arrangements		Transit operations funded with Section 5307, 5309, 5311 or 5316 funds			
Charter Service Operations		All			
School Bus Operations		All			
Drug and Alcohol Testing		Transit operations funded with Section 5307, 5309 or 5311 funds			
Patent Rights	Research & development				
Rights in Data and Copyrights requirements	Research & development				
Disadvantaged Business Enterprises (DBEs)	All	All	All	All	All

CLAUSE	TYPE OF PROCUREMENT				
	Professional Services/A&E	Operations/ Management/ Recipients	Revenue Rolling Stock	Construction	Materials & Supplies
Prompt Payment	All non TVM purchases if threshold for DBE program met	All non TVM purchases if threshold for DBE program met	All non TVM purchases if threshold for DBE program met	All non TVM purchases if threshold for DBE program met	All non TVM purchases if threshold for DBE program met
Recycled Products		Contracts for items designated by EPA, when procuring \$10,000 or more per year		Contracts for items designated by EPA, when procuring \$10,000 or more per year	Contracts for items designated by EPA, when procuring \$10,000 or more per year
ADA Access	A&E	All	All	All	
Veterans Employment				All	
Special Notification Requirements for States	Limited to states	Limited to states	Limited to states	Limited to states	Limited to states
Privacy Act	Contracts with personal identifier files	Contracts with personal identifier files	Contracts with personal identifier files	Contracts with personal identifier files	Contracts with personal identifier files
Bus Testing			All		

REQUIRED CERTIFICATIONS, REPORTS, AND FORMS
(excluding micro-purchases, except for construction contracts over \$2,000)

REQUIREMENT	COMMENTS	MASTER AGREEMENT REFERENCE***
Bus Testing Certification and Report	Procurements of buses and modified mass produced vans	§17.p(4)
Transit Vehicle Manufacturer Certification	Procurements of buses and modified mass produced vans	§13.d(3)
Buy America Certification	Projects >\$150,000 that contain steel, iron or manufactured products (see note)	§16.a
Pre-Award Audit	Rolling stock procurements	§17.p(3)
Pre-Award Buy America Certification	Rolling stock procurements>\$150,000(see note)	§17.p(3)
Pre-Award Purchaser's Requirement Certification	Rolling stock procurements	§17.p(3)
Post-Delivery Audit	Rolling stock procurements	§17.p(3)
Post-Delivery Buy America Certification	Rolling stock procurements >\$150,000 (see note)	§17.p(3)
Post-Delivery Purchaser's Requirement Certification	Rolling stock procurements	§17.p(3)
On-Site Inspector's Report	Rolling stock procurements for more than 10 vehicles for areas >200,000 in population and 20 for areas <200,000 in population	§17.p(3)

Federal Motor Vehicles Safety Standards Pre-Award and Post-Delivery Certification	Non-rail rolling stock procurements	§17.p(3)
Excluded Parties Listing System search	Procurements > \$25,000	§3.b
Lobbying Certification	Procurements > \$250,000	§3.d
Standard Form LLL and Quarterly Updates (when required)	Procurements > \$250,000 where contractor engages in lobbying activities	§3.d



**APPENDIX C
CONFLICT OF INTEREST DECLARATION FORM
EVALUATION COMMITTEE**

NAME:

POSITION/TITLE:

PROCUREMENT PROJECT:

QUOTE/RFP#:

DECLARATION

This form is written to assure the transparency of the RTA’s procurement process, rules and policies. In case of any conflict of interest, individuals involved in the procurement process shall declare if he/she has a private interest with the potential vendor(s)/bidder(s) that could improperly influence the solicitation outcome or the performance of his/her official duties which could be used for personal gain.

Employee Name (Print)

Employee Title

I understand my role as a member of the RTA procurement evaluation team and I make this declaration in good faith.
(Select one of the two options)

NO CONFLICT OF INTEREST

I have no actual, potential or perceived conflict of interest in relation to this procurement process as a member of the procurement evaluation team and I will carry out my duties with the highest objectivity and integrity.

CONFLICT OF INTEREST

I have a conflict of interest.

1. Select the type of conflict of interest

ACTUAL. This is an existing conflict of interest (such as a close relative/friend who is employed by one of the vendors that has submitted a quote/bid).

POTENTIAL. This is a conflict of interest that is about to happen, or could happen (such as a close relative/friend to be hired by, acquiring part or full ownership of, the firm/vendor that has submitted a quote/bid).

PERCEIVED. This is a conflict of interest which might be reasonably perceived by other as potentially compromising a person’s objectivity (such as a close personal relationship with a vendor that has submitted a proposal, or stand to benefit as a result of an award to this bidder)

Describe the circumstances giving rise to the conflict of interest:

Employee Signature

Date

San Luis Obispo
Regional Transit Authority



PROCUREMENT
CHECKLIST

Each FTA recipient is responsible for managing its programs and projects in compliance with applicable Federal requirements, and the FTA is responsible for ensuring that recipients comply with those requirements. This also applies to each subrecipient, under an FTA grant or cooperative agreement) that enters into contracts with other parties financed with FTA assistance. RTA, as the Designated Recipient of FTA Section funds, must ensure that subrecipients of these funds also comply with those requirements. Each recipient and subrecipient must comply with applicable Federal laws and regulations including, but not limited to, Federal transit laws at 49 U.S.C. Chapter 53, FTA regulations, and other Federal laws and regulations that contain requirements applicable to FTA recipients and their FTA assisted procurements. The following process was developed to assist FTA funded recipients and subrecipients in complying with these federal requirements.

The Checklists on the following pages are intended to offer guidance through a procurement process when utilizing federal and state funding; it does not constitute full compliance and local procurement guidelines may supersede federal and state procedures.

Table of Contents:

Page 3 - STEP 1 – Complete Grantee Information Below

Page 3 - STEP 2 – Complete Solicitation Process to Be Used Below

Page 3 - STEP 3 – Solicitation Development and Submission Requirements

- Method 1 -Required Documentation (NON-COMPETITIVE Solicitation)
- Method 2 - Required Documentation (COMPETITIVE Solicitation)
- Method 3 - Required Documentation (PIGGYBACK Solicitation)
- Method 4 - Required Documentation (SOLE SOURCE Solicitation)
- Method 5 - Required Documentation (QUALIFICATION BASED - BROOKS ACT)

Page 8 - STEP 4 – Solicitation and Bid Opening Submission Requirements

Page 9 - STEP 5 – Award and Contract Administration Requirements

Page 10 - STEP 6 – Project Closeout and Reimbursement Requirements

Page 11 - “Exhibit I”- Checklist of Required Federal Clauses, Certifications & Other Recommended Federal & Contract Requirements

Page 12 - “Exhibit II”- Written Record of Procurement History Best Practices

Page 13 - “Exhibit III” - Evaluation and Selection Criteria

Page 14 - “Exhibit IV” - Full and Open Competition

Page 15 - “Exhibit V” - Vendor Information Form

Page 16 – “Exhibit VI” - Guidance Concerning Good Faith Efforts

Procurement Management Master Checklist

STEP 1 – Complete Grantee Information Below

San Luis Obispo Regional Transit Authority

Grantee: _____ Project ID: _____ Date: ___/___/___

PROCUREMENT TYPE		PROJECT DESCRIPTION
<input type="checkbox"/> Professional Services	<input type="checkbox"/> Operations/Management	
<input type="checkbox"/> Architectural	<input type="checkbox"/> Rolling Stock	
<input type="checkbox"/> Engineering	<input type="checkbox"/> Construction	
<input type="checkbox"/> Architectural & Engineering	<input type="checkbox"/> Material & Supplies	

Contact Person: _____

STEP 2 – Complete Solicitation Process to Be Used Below

Solicitation Development (Choose the solicitation process used from categories below)

- Non-Competitive Solicitation** *Use if a projects cost threshold requires only the acquisition of quotes to satisfy competition.*

Competitive Solicitation (Select Below)

- Information for Bid (IFB)
- Request For Proposal (RFP)
- Piggyback
- Sole Source
- Qualification Based (Brooks Act)
- Other _____

Based on your solicitation process selected above, continue to “STEP 3” below to assure the required documentation necessary to advance the project is developed & saved in the project folder.

Please Note:

It is recommended that an “Independent Cost Estimate”(for estimated costs of \$250,000 or greater). And ICE should be performed prior to receiving bids or proposals to improve the reliability of forecasting costs. This can range from a budget estimate to a complex estimate based on inspection and review.

STEP 3 – Solicitation Development and Submission Requirements

Select the “Method” of acquisition chosen above from the 6 methods below to determine necessary requirements to follow.

Continue to **“STEP 5 – Award and Contract Administration Requirements”**

Method 2 -Required Documentation (Non-Competitive Solicitation) all required documents are to be collected and saved in project folder to confirm eligibility.

- 1) Was an Independent Cost Estimate Required/Performed? Yes ___ No ___
- 2) Was a quotation evaluation performed? Yes ___ No ___
- 3) Search the DBE directory to foster small business participation.
Was this performed? Yes ___ No ___
- 4) Obtain and submit two to three written quotes
Was this performed? Yes ___ No ___
- 5) Was written notice of approval received from RTA to proceed with the project solicitation? Yes ___ No ___
- 6) A "Written Record of Procurement History" is required of grantees to maintain details of a procurement history (see Exhibit II), was this file created? Yes ___ No ___
- 7) Enter Milestones in database

FOR RTA USE ONLY	Yes	No
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- 8) Continue to **"STEP 4 (question 8) – Solicitation and Bid Opening Submission Requirements"**

Method 3 - Required Documentation (Competitive Solicitation) all required documents are to be collected and saved in project folder to confirm eligibility.

- 1) Was an Independent Cost Estimate Required/Performed? Yes ___ No ___
- 2) Was Solicitation/RFP developed? Yes ___ No ___

The solicitation package should contain at minimum the following content

- a) Project Scope and Technical Specifications Yes ___ No ___
- b) Written Standards of Conduct and Conflicts of Interest Yes ___ No ___
- c) Contract Term Limitations (e.g. 5yr limit for Rolling Stock contracts) Yes ___ No ___
- d) Evaluation and Selection Criteria, (see Exhibit III) Yes ___ No ___
- e) Include written DBE Requirements to foster small business participation.
Search the NY State Unified Certification Program to assess qualified DBE's to send a solicitation too, at <https://nysucp.newnycontracts.com/> Yes ___ No ___
- f) Assignability Rights Yes ___ No ___
- g) Protest and Appeals Process Yes ___ No ___
- h) Model Contract Yes ___ No ___

Federal Requirements

- Are required Federal Clauses and Certification attached? Yes ___ No ___

One of the principles of contracting with Federal funds received directly or indirectly from FTA is a recognition that, as a condition of receiving the funds, certain specific Federal requirements must be met not only by the recipient of the funds (the grantee) but also by sub recipients and a grantee's third party contractors. The Federal requirements to be met by the grantee's third party contractors will be defined by the clauses and certifications included in the grantee's third party contracts. See "Exhibit I" for comprehensive checklist of required federal clauses & certifications.

- 3) Was written notice of approval received from RTA to proceed with the project solicitation? Yes ___ No ___
- 4) A "Written Record of Procurement History" is required of grantees to maintain details of a procurement history (see Exhibit II), was this file created? Yes ___ No ___
- 5) Enter Milestones in database
- 6) Continue to **"STEP 4 – Solicitation and Bid Opening Submission Requirements"**

FOR RTA USE ONLY	Yes	No
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Method 4 - Required Documentation (PIGGYBACK Solicitation) *all required documents are to be collected and saved in project folder to confirm eligibility.. (If you are NOT purchasing via the "PIGGYBACK" process please skip this section and move to the appropriate section above or below).*

- 1) Was an Independent Cost Estimate Required/Performed? Yes ___ No ___
- 2) Request in writing to the contracting agency the right to piggyback of the existing contract. *Was a written request sent to the contracting agency?* Yes ___ No ___
- 3) Obtain written approval from contracting agency for rights to piggyback of the existing contract. *Was written approval received from contracting agency?* Yes ___ No ___
- 4) Obtain and review from original contracting agency, the original contract, and review for compliance with federal procurement requirements as stated below.
- a) Was Procurement Competitively Procured? Yes ___ No ___
- b) Have you obtained a copy of the contract and the solicitation document, including the specifications and any Buy America requirements? Yes ___ No ___
- c) Does the solicitation contain an express "assignability" clause that provides for the assignment of the specified deliverables? Yes ___ No ___
- d) Did it include the signed "certifications" required? See "Exhibit 1". Yes ___ No ___
- e) Did it contain the clauses required by Federal regulations? See "Exhibit 1". Yes ___ No ___
- f) Were the piggyback quantities (including indefinite quantity) included in the original solicitation; and were they evaluated as part of the contract award decision? Yes ___ No ___
- g) If an indefinite quantity contract, did the original solicitation/contract contain minimum and maximum quantity/value, and represent the foreseeable needs? Yes ___ No ___
- h) If this piggybacking action represents the exercise of an option is it still valid? Yes ___ No ___
- i) Does State law allow for the procedures used by original contracting agency? Yes ___ No ___
- j) Was a cost/price analysis performed by the original contracting agency? Yes ___ No ___
- k) Does the contract meet FTA term limitations (i.e.: 5yr for rolling stock)? Yes ___ No ___
- l) Was there a proper evaluation of the bids or proposals? Yes ___ No ___
- m) If changes are required to deliverables, are they within scope of the contract. Yes ___ No ___ N/A ___
- 5) Was a copy of the original contract obtained? Yes ___ No ___
- 6) Were you able to answer yes or N/A to the 13 points of number 4 above? Yes ___ No ___
- 7) Have you checked the "Excluded Parties List System" (EPLS) to assure the contractor hasn't been declared ineligible from receiving Federal contracts? Yes ___ No ___
- 8) All piggyback acquisitions require a new municipal/vendor contract be established, including the required federal clauses and certifications. Is there a new municipal/vendor contract? Yes ___ No ___
- 9) Was there a current "Price/Cost Analysis performed? Yes ___ No ___
- 10) Was new "Buy America" pre-award/post-delivery audits done, if applicable, to ensure nothing has changed since the original award? Yes ___ No ___ N/A ___
- 11) Was the full draft procurement package forwarded to RTA and was written approval received from RTA to proceed? Yes ___ No ___
- 12) A "Written Record of Procurement History" is required of grantees to maintain details of a procurement history (see Exhibit II), *was this file created?* Yes ___ No ___
- 13) Enter Milestones in database
- 14) Continue to **"STEP 4 – Solicitation and Bid Opening Submission Requirements"**

FOR RTA USE ONLY

Yes ___ No ___

Method 5 - Required Documentation (SOLE SOURCE Solicitation) *When supplies or services available from only one source, and no other supplies or services will satisfy its requirements, you may make a sole source award. The determination of unique capability or availability of property or services from one source will be a consideration if one of the conditions described below are present and justified.*

CONDITIONS:

1. **Unique or Innovative Concept.** The offeror demonstrates a unique or innovative concept or capability not available from another source. Unique or innovative concept means a new, novel, or changed concept, approach, or method that is the product of original thinking, and has not in the past been available to the recipient from another source.
2. **Patents or Restricted Data Rights.** Patent or data rights restrictions preclude competition.
3. **Substantial Duplication Costs.** In the case of a follow-on contract for the continued development or production of highly specialized services, when it is likely that award to another contractor would result in substantial duplication of costs that are not expected to be recovered through competition.
4. **Unacceptable Delay.** In the case of a follow-on contract for the continued development or production of a highly specialized service, when it is likely that award to another contractor would result in unacceptable delays in fulfilling the recipient's needs.

Sole Source Justification Checklist

The development of a Sole Source justification should be well documented and have several supporting components to it, and have met one or more of the above conditions.

Justification should contain at minimum the following checklist credentials:

- Justification** – Why items/services to be purchased or performed are available only from a single source.
- Business Rational** – Reason for acquiring items or services and their applicability to the project.
- Alternative Evaluation** – Narrative of sole source preference verses performing a re-solicitation and award.
- Cost/Price Analysis** – A cost/price analysis is necessary for all sole source procurements to assure continued best value is being sought.
- Reasonableness of Price** – Narrative of reasonable of price, demonstrating the level of work being performed is a prudent use of resources.
- Certification** – Administrative sign-off on the justification in support of all documentation having been reviewed and approved.
- Scope of Services** – Attach a current “Scope of Services” pertaining to the sole source award.

- 1) Has at least one (1) of the four (4) conditions above been met? Yes ___ No ___
- 2) Have you written the Sole Source Justification memo? Yes ___ No ___
- 3) Was written approval received from the Executive Director/CFO to proceed? Yes ___ No ___
- 4) A "Written Record of Procurement History" is required of grantees to maintain details of a procurement history (see Exhibit II), was this file created? Yes ___ No ___
- 5) Enter Milestones in database
- 6) Continue to **“STEP 4 – Solicitation and Bid Opening Submission Requirements”**

Method 6 - Required Documentation (QUALIFICATION BASED - BROOKS ACT)*For applicable projects related to or leading to construction, an FTA recipient must use the qualifications-based procurement procedures (Brooks Act procedures) when contracting for A&E services and other services including program and construction management, feasibility studies, preliminary engineering, design, architectural, surveying, mapping, or related services.*

Not all projects involving construction require qualifications-based procurement procedures such as: end products used in construction, design of message signs, signals, movable barriers, intelligent transportation system (ITS) projects, and actual construction. Whether qualifications-based procurement procedures are necessary depends on the actual services.

Qualifications-Based Procurement Procedures - *The following procedures apply to qualifications-based procurements:*

1. Qualifications - Unlike other two-step procurement procedures in which price is an evaluation factor, an offeror's qualifications are evaluated to determine contract award.
2. Price - Price is excluded as an evaluation factor.
3. Most Qualified - Negotiations are first conducted with only the most qualified offeror.
4. Next Most Qualified - Only after failing to agree on a fair and reasonable price may negotiations be conducted with the next most qualified offeror.

Applicability to Design-Bid-Build and Design-Build Procurements

Design-Bid-Build - The design-bid-build procurement method requires separate contracts for design services and for construction.

1. Design Services - For design services, the recipient must use qualifications-based procurement procedures, in compliance with applicable Federal, State and local law.
2. Construction - Because the recipient may not use qualifications-based procurement procedures for the actual construction, alteration or repair of real property, the recipient generally must use competitive procedures for the construction.

Design-Build - The design-build procurement method consists of contracting for design and construction simultaneously with contract award to a single contractor or team.

1. Procurement Method Determined by Value - First separate out the various activities into design or construction costs, and then calculate the estimated total value of each.
2. Construction Predominant - When construction costs are predominant use competitive negotiations or sealed bids for the entire procurement unless determines otherwise in writing.
3. Design Services Predominant - When design costs are predominant use qualifications-based procurements for the entire procurement.
4. Enter Milestones in database
5. Continue to **“STEP 4 – Solicitation and Bid Opening Submission Requirements”**

FOR RTA USE ONLY	Yes	No
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STEP 4 – Solicitation and Bid Opening Submission Requirements

The solicitation and BID Opening phase encompasses the Advertising, Opening, Review, Analysis, and the Selection processes of competitive and non-competitive procurements. Detailed and comprehensive execution of this phase can help avoid conflicts that could result in delay or possibly even a re-bid of the entire project. Opportunity for clarification of Solicitation Documents may be necessary. A process to address any potential questions should be offered well in advance of the submission deadline.

Examination of all proposals received for responsiveness to all corresponding instructions, forms, terms and specifications contained in the solicitation is necessary to provide a proper evaluation. Failure to do so may affect the evaluation of the Bid.

The Checklist below is intended to offer guidance through the opening and review phase if a solicitation/bid was performed utilizing federal funding, it does not constitute full compliance. State and local procurement guidelines may supersede federal practices and should be reviewed for further compliance requirements.

All documents are required.

- 1) Advertisement of the solicitation without geographic preference, except in A/E under certain circumstances is required.
*RTA will require documented proof this was performed.
For further information on geographic preference please see Exhibit IV.
Was this project advertised without geographic preference?* Yes __ No __ N/A__
- 2) Approved Equals/Request for Clarifications process. *See Exhibit IV for more on approved equal's process. Was an approved equal's process documented?* Yes __ No __ N/A__
- 3) Pre-Bid Meeting - Communicating with potential contractors through pre-bid conferences is a good way to control costs and minimize claims. The grantee "should" post and make the materials distributed and discussed at the conference available to the potential offeror, upon request.
*Was a Pre-Bid Meeting held? Yes __ No __ N/A__
If so, was all material and discussions posted and made available? Yes __ No __*
- 4) Bid opening and recording - The opening of bids are public events and open to the general public. The bids are opened at a specified time and recorded on a document called an Abstract of Bids and this document is available for public inspection after completion. *Was a Bid Opening and Recording performed?* Yes __ No __ N/A__
- 5) Review of all request for proposals in accordance with selection criteria – *Were all proposals evaluated based on established Evaluation and Selection Criteria (see Exhibit III) set forth in the solicitation for responsiveness?* Yes __ No __ N/A__
- 6) Disadvantaged Business Enterprises opportunities (DBE)- *Were all proposals evaluated to determine if a "Good Faith Effort" to involve DBE's and documentation provided? (See Exhibit VI)* Yes __ No __ N/A__
- 7) Tabulation of Bids/Proposals – Document in a tabular format all bids/proposals including selection criteria, responsibility determination and grading. *Was the process of tabulating all bid/proposals performed?* Yes __ No __ N/A__
- 8) Cost or Price Analysis - A cost or price analysis is required for every contract and every change order so that the essential objective of a reasonable price is assured. *Was a cost/price analysis performed?* Yes __ No __
- 9) Disbarment (SAMs) – Review of the Excluded Parties List at, <https://www.sam.gov/>

must be performed for all solicitations to assure the contractor hasn't been declared ineligible from receiving Federal contracts. *Was this process performed and a copy printed?* Yes ___ No ___
Continued: Solicitation and Bid Opening Submission Requirements

- 10) Review FTA's TVM website (<http://www.fta.dot.gov/civilrights/12891.html>) prior to bid award to verify TVM Certification. Include a print out of the website page with bid documentation. Was this process performed and a copy printed and submitted? Yes ___ No ___ N/A ___
- 11) Award Selection and Justification - The potential winning vendor selected, based on evaluation criteria to offer a contract to must be supported with documented justification explaining the decision. If procurement was low bid, provide justification if award is to be to someone other than lowest bidder. *Was this process performed?* Yes ___ No ___
- 12) Formal Protests - Were any filed? *(if your answer is no move onto number 13)* Yes ___ No ___
If you answered yes, has RTA received all documentation? Yes ___ No ___
- 13) Draft copy of proposed Contract – A draft copy of a contract should be developed, containing all federally required clauses and certifications for review prior to actual contract being entering into. *Was this process performed?* Yes ___ No ___
- 14) Provide copies of all documentation gathered and prepared in steps 1-13 above to RTA for review and approval. Proceeding to contract award prior to approval can render the project ineligible for funding. Has all documentation been submitted to RTA for review? Yes ___ No ___
- 15) Was written approval received from RTA to proceed? Yes ___ No ___
- 16) Has all documentation gathered above been placed in the "Written Record of Procurement History" files? Yes ___ No ___
- 17) Enter Milestones in database
- 18) Continue to **“STEP 5 – Award and Contract Administration Requirements”**

FOR RTA USE ONLY	Yes	No
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STEP 5 – Award and Contract Administration Requirements

The Project Award and Contract Administration phase encompasses the contract development, contract award, and order to precede portion of procurement. Clarity of work task expectations spelled out within the contract can help avoid conflicts that could result in delay of the project. Some example expectations include: expected milestones and benchmarks, processes for change orders, and chain of command to be followed.

The Checklist below is intended to offer guidance through the Award and Contract Administration phase if a solicitation/bid was performed utilizing federal funding, it does not constitute full compliance. State and local procurement guidelines may supersede federal practices and should be reviewed for further compliance requirements.

- | | |
|---|------------------------|
| 1) Award contract, adhering to applicable contract term limitations.
Was a correspondence for contract award performed? | Yes ___ No ___ |
| 2) Finalize Contract w/appropriate clauses & certifications. Was this Performed? | Yes ___ No ___ |
| 3) Secure Bonds and Insurance as required. Was this Performed? | Yes ___ No ___ N/A ___ |
| 4) Develop milestones and closeout procedures. Was this Performed? | Yes ___ No ___ |
| 5) Awarded Vendor Information – Provide information on “Exhibit V” “Vendor Information Form” including name, address, phone, fax, email, web, Federal ID, DUNS number, contract amount, force account and DBE/WMBE status. Was “Exhibit” V submitted to RTA for review? | Yes ___ No ___ |
| 6) Submitted documentation to RTA for review and approval. | Yes ___ No ___ |
| 7) Written order to Proceed, upon approval from RTA. Was this Performed? | Yes ___ No ___ |
| 8) Change Orders will require approval before project can proceed further. | |
| a. <i>Were there any “Change Orders”?</i> | Yes ___ No ___ |
| b. <i>Did all change orders receive approval to proceed in writing?</i> | Yes ___ No ___ |
| c. <i>Did a Price/Cost Analysis accompany all change orders?</i> | Yes ___ No ___ |
| 9) Submit all documentation gathered above to RTA and place in the "Written Record of Procurement History" file? | Yes ___ No ___ |
| 10) Enter Vendor data and Milestones in database | |

11) Continue to **“STEP 6 – Project Closeout and Reimbursement Requirements”**

FOR RTA USE ONLY	Yes ___	No ___
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12)

STEP 6 – Project Closeout and Reimbursement Requirements

A completed contract is one that is both *physically* and *administratively* complete. The eventual request for reimbursement will hinge on close-out having occurred in its entirety. A contract is physically complete only after all deliverable items and services called for under the contract have been delivered and accepted by the grantee. A contract is administratively complete when all payments have been made and all administrative actions accomplished. The steps that must be completed to close out a contract will depend upon the type and/or nature of the contract.

The closeout of routine purchase orders or contracts will need to ensure that all acquisitions have been inspected and accepted in conformance with the purchase order/contract specifications. An inspection/acceptance form should be in the file attesting to the contractor's delivery of all contract end items, including any descriptive literature or warranty documentation. There must also be documentation attesting to final payment by the accounts payable department.

Non-routine contracts for services, construction, rolling stock, etc. - Contracts for personal services, complex equipment, construction, and other one-of-kind items will require a number of steps to effect an administrative closeout. Major elements of the closeout process, and related documentation, might include:

- 1. Has resolution of all contract changes, claims, and final quantities to be delivered taken place? Yes ___ No ___
- 2. Has settlement of all prime and subcontracts as well as any retainage taken place? Yes ___ No ___
- 3. Have all post delivery inspections been performed and documented as acceptable? Yes ___ No ___ N/A ___
- 4. Have all post delivery certifications, as applicable, been signed, received and documented, including post delivery buy America requirements? Yes ___ No ___ N/A ___
- 5. Did submittal of all required documentation (final reports, lease & service agreements, maintenance policy and plans, etc.) take place? Yes ___ No ___
- 6. Have all cancelled checks, electronic transfers, project invoice(s), signed agreements and certifications been submitted to RTA for review and final approval of project close-out? Yes ___ No ___
- 7. Enter Milestones in database

Important information:

FOR RTA USE ONLY Yes ___ No ___

Record Retention - The Recipient agrees to maintain intact and readily accessible all data, documents, reports, records, contracts, and supporting materials relating to the Project as the Federal Government may require during the course of the Project and for three years thereafter.

Access to Records of Recipients and Subrecipients - Upon request, the Recipient agrees to permit and require its Subrecipients to permit the Secretary of Transportation, the Comptroller General of the United States, and, if appropriate, the State, or their authorized representatives, to inspect all Project work, materials, payrolls, and other data, and to audit the books, records, and accounts of the Recipient and its Subrecipient pertaining to the Project.

Project Closeout - Project closeout does not alter these reporting and record retention requirements.

“Exhibit I”

Checklist of Required Federal Clauses, Certifications & Other Recommended Federal & Contract Requirements

TABLE 1: FTA REQUIRED PROCUREMENT CLAUSES

Sec.	Federal Contract Clause	Applicability to Type of Contract
1	Access to Third-Party Records, Reports & Sites	Value > \$10K, except Construction Contract > \$2K
2	Air Pollution and Fuel Economy	Rolling Stock
3	Americans with Disabilities Act (ADA)	Contracts for rolling stock or facilities construction/renovation
4	Ban Text Messaging While Driving	Value > \$10K, except Construction Contract > \$2K
5	Bonding Requirements	Construction or Facility Improvement Contracts Value > \$250K
6	Bus Testing Requirements	Rolling Stock Acquisition
7	Buy America Requirements	Value > \$150K for Contracts that Involve the Purchase of Iron, Steel, Manufactured Goods or Rolling Stock
8	Cargo Preference Requirements	Equipment/Material/Commodities Transported By Ocean Vessels
9	Changes to Federal Requirements	All
10	Charter Bus Requirements	Charter Operations Service (N/A for RTA)
11	Civil Rights Laws & Regulations (Federal EEO, Non-Discrimination on the Basis of Sex & Age, Federal Protections for Individuals with Disabilities)	Value > \$10K, except Construction Contract > \$2K
12	Civil Rights and Equal Opportunity (Nondiscrimination Race, Color, Religion, National Origin, Sex/Age/Disabilities, Free Speech & Religious Liberty)	Value > \$10K, except Construction Contract > \$2K
13	Clean Air Act & Federal Water Pollution Control Act	Value > \$150K
14	Conformance with National ITS Architecture Policy	Contracts & Solicitations for National Intelligent Transportation System projects
15	Contract Work Hours and Safety Standards Act	Prime Construction Contracts > \$2K All Contracts that Involve Employment of Laborers or Mechanics Value > \$100K
16	Davis-Bacon and Copeland Anti-Kickback Act	Prime Construction Contracts > \$2K All Contracts that Involve Employment of Laborers or Mechanics Value > \$100K
17	Debarment and Suspension (Government-Wide)	Value > \$25K
18	Disadvantaged Business Enterprise (DBE) Requirements	Value > \$10K, except Construction Contract > \$2K
19	Energy Conservation Requirements	Construction > \$250K
20	Environmental Protections (NEPA, Environmental Justice, Clean Air Act & Clean Water Act, Historic Preservation, Indian Sacred Sites, Corridor Preservation)	Construction > \$150K
21	Equal Employment Opportunity	All Construction Contracts
22	Federal Tax Liability and Recent Felony Conviction Certification	Value > \$25,000
23	Fly America Requirements	When Air Transportation Between the U.S. and Outside the U.S. and Paid By FTA Funds
24	Incorporation of FTA Terms	Value > \$10K, except Construction Contracts > \$2K
25	Motor Carrier Safety	Transit Service Operations Contracts
26	National Transit Database (NTD) Reporting	Transit Service Operations Contracts
27	No Federal Government Obligation to Third Parties	All
28	Notice to FTA and US DOT Inspector General of Information Related to Fraud, Waste, Abuse, or other Illegal Matters	Value > \$25K

29	Patent Rights & Rights in Data (Intellectual Property / Rights to Inventions Made by Nonprofit and Small Business)	Research Projects Only
30	Pre-Award and Post-Delivery Audits of Rolling Stock Purchases	Rolling Stock Acquisition
31	Program Fraud and False or Fraudulent Statements and Related Acts	Value > \$10K, except Construction Contract > \$2K
32	Prohibition of Telecommunications / Surveillance Equipment	All
33	Prompt Payment	Value > \$10K, except Construction Contracts > \$2K
34	Public Transportation Employee Protective Arrangements	Transit Operations Contracts
35	Restrictions on Lobbying	Value > \$100K
36	Rolling Stock Limitations	Rolling Stock Acquisition
37	Safe Operations of Motor Vehicles (Seat Belt Use, Distracted Driving & Subcontracts)	All
38	School Bus Operations Requirements	School Bus Operations Service (N/A for RTA)
39	Seismic Safety Requirements	New Construction/Additions to Existing Buildings
40	Severability	All
41	Simplified Acquisition Threshold	Value > \$250K
42	Solid Wastes (Recovered/Recycled Materials)	EPA designated items Value > \$10K In Fiscal Year
43	Special DOL EEO Clause for Construction Projects	Construction Contracts > \$250K
44	Substance Abuse (Drug and Alcohol Testing)	Transit Operations Contracts that Perform Safety Sensitive Functions
45	Termination (49CFR Part 18 applies)	Value > \$10K, except Construction Contracts > \$2K
46	Trafficking in Persons	Value > \$10K, except Construction Contracts > \$2K
47	Veterans Hiring Preference	Construction Projects >\$250K
48	Violation & Breach of Contract	Value > \$250K

Other FTA Certifications (Complete ONLY IF Applicable)			Regulatory Reference
A	Debarment and Suspension Certification	Value > \$25K	FTA Master Agreement §4.h
B	Federal Tax Liability Certification	Value > \$25K	49 CFR Part 613
C	Lobbying Certification	Value > \$100K	49 CFR Part 20
D	Buy America Certification (Including Pre-Award Purchaser's and Post Delivery Certification)	Value > \$150K for Contracts that Involve the Purchase of Iron, Steel, Manufactured Goods or Rolling Stock	49 CFR Part 661
E	Bus Testing Certification of Compliance	Rolling Stock Acquisition	49 CFR Part 665
F	Transit Vehicle Manufacturer (TVM) DBE Certification	Rolling Stock Acquisition	49 CFR Part 26
G	Federal Motor Vehicle Safety Standards (FMVSS) Certification	Rolling Stock Acquisition	49 CFR Part 663

The Federal Transit Administration Master Agreement FTA MA(31) applies to projects financed with federal funds beginning on the effective date of the Master Agreement, until the Master Agreement version is superseded. [FTA Master Agreement \(version 31, May 2, 2024\)](#)

“Exhibit II”

Written Record of Procurement History Best Practices

Many procurement reviews may find few problems with the fundamental decisions leading to the results of procurement, but may reach negative conclusions and unwanted recommendations due to well considered decisions not being well documented. Stating briefly why a decision was made may help you and your agency, as well as satisfy the requirements of applicable third party contracting requirements.

Where appropriate, the procurement documentation file should contain¹:

- Purchase request, acquisition planning information, and other pre-solicitation documents;
- Evidence of availability of funds;
- Rationale for the method of procurement (negotiations, formal advertising);
- List of sources solicited;
- Independent cost estimate;
- Statement of work/scope of services;
- Copies of published notices of proposed contract action;
- Copy of the solicitation (without geographic preference), all addenda, and amendments;
- Liquidated damages determination;
- An abstract of each offer or quote;
- Contractor's contingent fee representation and other certifications and representations;
- Source selection documentation;
- Contracting Officer's determination of contractor responsiveness and responsibility;
- Cost or pricing data;
- Determination that price is fair and reasonable including an analysis of the cost and price data, required internal approvals for award;
- Notice of award;
- Notice to unsuccessful bidders or offerors and record of any debriefing;
- Record of any protest;
- Bid, Performance, Payment, or other bond documents, and notices to sureties;
- Required insurance documents, if any; and
- Notice to proceed.

Purchase order forms (electronic or manual) and standard files for small purchases can be designed to make the recording of most of the relevant data for small purchases automatic. Bid and proposal files, particularly if you use sealed bids under \$100,000 can also be standardized to facilitate recording the appropriate data. For larger procurements, there are often memoranda or correspondence that, if assembled in the file, addresses many of the key issues.

The procurement file and the contract administration file can be coordinated by standard practice, so that nothing between bid opening and notice of award is omitted.

“Exhibit III”

Evaluation and Selection Criteria

PURPOSE

The required feature that principally distinguishes an RFP from an IFB is the listing of evaluation factors. These factors typically include responsibility factors (financial, human, and physical capacity to perform), and technical factors (ability to perform based on information submitted and the relative qualifications of the proposer's personnel).

Some criteria also list order of importance, weighting and the scoring methods use in selection. For instance, in the case of Qualification-Based procurements the elimination of cost as being a deciding factor emphasized the importance of writing to technical, educational and experience skillsets.

The purposes for disclosing of the evaluation process are so that:

- Offerors can more accurately respond to your needs; and
- Clearly present the information you need to conduct your evaluation; and

The competitive proposal process involves a subjective evaluation process and discussions that are typically confidential. Acceptance by the public and dissatisfied offerors is more likely if the evaluation and selection process is well documented.

The following is a listing of elements commonly found in the competitive proposal method of procurement.

- 1) *Technical and cost proposal may be requested under separate cover so that they may be evaluated, frequently by separate staff. Where the appearance of technical objectivity is important, it is a better practice to initially evaluate the technical proposals without knowledge of costs, so that an objective and impartial evaluation can be obtained;*
- 2) *The evaluation factors² to be considered (past performance, technical criteria, key personnel, education and experience, cost, and relative importance) in the award are identified in the RFP along with the relative importance of each. While this requires only the ranking of the factors without quantifying the importance or describing the process for applying the factors to proposals, some agencies disclose their selection process in detail. (Disclosing the specific weights and scoring processes may encourage proposers to distort their proposals, and may strengthen the disappointed proposer's attack on the agency decision);*
- 3) *Provide a full description of the process to be undertaken to guide proposers in a strong understanding your needs. This can also strengthen the impartiality of your evaluation team, encourages openness in a negotiation process, and encourage.*
- 4) *Notify prospective offerors that award may be made on the basis of initial proposals submitted without any negotiations or discussions. This clearly states the initial proposal should be their best effort.*

² FTA Best Practices Procurement Manual, 4.5.2 Evaluation of Proposals

“Exhibit IV”
Full and Open Competition

REQUIREMENT

The Federal Transit Administration requires all procurements to be conducted in a manner providing for full and open competition. This requirement limits the use of noncompetitive contract awards to those situations when the award of a contract is infeasible under small purchase procedures, sealed bids, or competitive proposals and at least one of several specifically named circumstances are present. Thus, contracts with a value of more than \$100,000 shall be awarded by sealed bid or competitive negotiation unless there is an explicit exception.

The FTA considers the following practices to be restrictive of competition³:

- Unreasonable requirements placed on firms in order for them to qualify to do business;
- Unnecessary experience and excessive bonding requirements;
- Noncompetitive pricing practices between firms or between affiliated companies;
- Noncompetitive awards to any person or firm on retainer contracts;
- Restrictive use of brand names⁴;
- Any arbitrary action in the procurement process;
- Geographic preferences⁵;
- Organizational Conflicts of Interest; and
- Prohibitive or restrictive type contracts.

⁴*Brand Names - A name of a product or service that is limited to the product or service produced or controlled by one private entity or by a closed group of private entities. Brand names may include trademarks, manufacturer names, or model names or numbers that are associated with only one manufacturer. The FTA considers use of brand names restrictive without opportunity for an Approved Equals process (an item or service which has been approved by the procuring agency as equal to the brand name item originally specified).*

⁵*Prohibition Against Geographic Preferences - Grantees shall conduct procurements in a manner that prohibits the use of statutory or administratively imposed in-State or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. This does not preempt State licensing laws. However, geographic location may be a selection criterion in procurements for architectural and engineering (A&E) services provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.*

³ Federal Transit Administration (FTA) Federal Circular 4220.1F, Chapter VI(2)

“Exhibit V”
Vendor Information Form

INSTRUCTIONS FOR COMPLETING THE VENDOR INFORMATION FORM

After selection of the vendor chosen to award the contract to, please complete the "Vendor Information Form" below and attach documentation of the “Good Faith Efforts” performed to engage DBE’s and WMBE’s in the solicitation. Once complete please return to your RTA procurement representative for processing. Failure to return this form complete, with documentation of the “Good Faith Efforts, will delay approval to award the contract.

Step 1 - Complete the form

Enter the vendor’s information on the form below. All information must be provided before approval to award will be given.

Step 2 – Form Submission

After completing this form please save in project folder.

Vendor Information Form

VENDOR NAME						
VENDOR ADDRESS						
CITY		STATE		ZIP CODE		
PHONE			FAX			
EMAIL ADDRESS			WEB ADDRESS			
FEDERAL ID NUMBER			DUNS NUMBER			
CONTRACT AMOUNT	\$		FORCE ACCOUNT	\$		
DBE STATUS	YES	NO	WMBE STATUS	<input type="checkbox"/> YES	<input type="checkbox"/> NO	
GOOD FAITH EFFORTS REQUIRED <i>(Attach required documentation to this form)</i>	Documentation of the good faith efforts performed to reach out to DBE’s and WMBE’s is required regardless of awarded. Please use “ <u>Exhibit VI</u> ” below for guidance in providing this required documentation. Was this performed?				<input type="checkbox"/> YES	<input type="checkbox"/> NO

“Exhibit VI”
Guidance Concerning Good Faith Efforts

Good Faith Efforts proceduresⁱ must be documented on contracts utilizing federal funds that have an established DBE goal. Award requires a bidder/offeror be able to show good faith efforts were performed to meet the goal. A good faith effort is defined as one where the bidder:

1. *Documents that it has obtained enough DBE participation to meet the goal; or*
2. *Documents adequate good faith efforts, even though it did not meet the goal.*

This appendix “Guidance Concerning Good Faith Efforts” provides grantees with suggested types of actions they should perform/document to demonstrate good faith efforts.

These efforts must be active steps, which could reasonably be expected to lead to sufficient DBE participation to meet the contract DBE participation goal. Good Faith Efforts require that the bidder consider all qualified DBEs, who express an interest in performing work under the contract. This means that the bidder cannot reject a DBE as unqualified unless the bidder has sound reasons based on a thorough investigation of the DBE’s capabilities. Further, the DBE’s standing within its industry, membership in specific groups, organizations or associations and political or social affiliation (for example, union vs. non-union employee status) is not legitimate causes for the rejection or non-solicitation of bids in the Contractor’s efforts to meet the contract DBE participation goal.

The following, which is not all inclusive, list types of actions which indicate good faith efforts on the part of a bidder to meet the DBE goal. The extent and type of actions required will vary depending on such things as industry practice; the time available for submitting a bid and the type of contract.

1. *Attendance at a pre-bid meeting, if any, scheduled to inform DBEs of subcontracting opportunities under a given solicitation.*
2. *Advertisement in general circulation media, trade association publications, and minority-focus media.*
3. *Written notification to capable DBEs that their interest in the contract is solicited.*
4. *Documentation of efforts to negotiate with DBEs for specific sub-contracts including at a minimum:*
 - a. *The names, addresses, and telephone numbers of DBEs contacted and the date.*
 - b. *A description of the information provided to DBEs.*
 - c. *A statement explaining why additional agreements with DBEs were not reached.*
5. *For DBE bidders contacted but rejected as unqualified, the reason for that conclusion.*
6. *Documentation of efforts made to assist the DBEs contacted that needed assistance in obtaining bonding or insurance required by the bidder.*
7. *Documentation of efforts to utilize the services of small business organizations, community and contractor groups to locate qualified DBEs.*
8. *Documentation that the bidder has broken out contract work items into economically feasible units in fields where there are available DBE firms to perform the work.*
9. *Evidence that adequate information was provided to DBEs about the plans, specifications and requirements of the contract, and that information was communicated in a timely manner.*
10. *Documentation of any efforts made to assist interested DBEs in obtaining necessary equipment, supplies, materials or related assistance or services.*

ⁱ Best Practices Procurement Manual, 7.3.5.4 “Good Faith Efforts to Meet Contract Goals”



**APPENDIX E:
DETERMINATION OF PRICE REASONABLENESS**

PO/Contract Number: (If applicable) _____

Vendor: _____

Items Purchased:

The price(s) paid for item(s) received under this purchase are determined to be fair and reasonable, based on the following (as checked): (**supporting documentation attached**)

- Adequate competition
- Current price lists
- Catalog price
- Prices found reasonable on recent previous purchases
- Advertisements
- Similar items in a related industry
- Independent price estimate (ICE) (based on a good understanding of what the item should cost)
- Other basis (Explain Below):

Prepared By: _____

Title: _____

Date: _____

APPENDIX F BID PROTEST PROCEDURES

Bid Protest Procedures/Policy Before Bid Opening

Each bid proposal shall set a timetable for filing a protest before a bid opening, (10 working days).

The most common types of protest that might be filed before a bid opening would include one based upon restrictive specifications, or alleged improprieties in any type of solicitation that is apparent prior to the scheduled bid opening.

RTA will grant the protesting firm a fair review, and allow up to 10 working days to review or appeal a decision provided no state or federal law or regulation has been violated.

It is the intent of RTA to resolve all protests at the local level.

When a protest is filed before a scheduled bid opening certain steps must be followed:

- A. The protest must be submitted in writing within the specified time frame and sent to the Deputy Director/CFO for determination. (10 working days)

San Luis Obispo Regional Transit Authority
253 Elks Lane
San Luis Obispo, CA 93401

- B. The protest must contain the reason(s) for the protest and should recommend a remedy.
- C. Where appropriate, RTA will hold an informal conference on the merits of a protest with all interested parties allowed to attend. Interested parties may include all bidders/offerors and subcontractors or suppliers provided they have a substantial economic interest in a portion of the IFB or RFP.
- D. All potential bidders will be advised of a pending protest.
- E. RTA shall not open bids prior to the resolution of the protest, unless it is determined that;
1. The items to be procured are urgently required, or;
 2. Delivery or performance will be unduly delayed by failure to make the award promptly, or;
 3. Failure to make prompt award will otherwise cause undue harm to RTA or the Federal Government.
- F. RTA will respond in writing within 10 working days after receipt of a properly filed protest. The response will be provided by the Deputy Director/CFO and will include a response to each substantive issue raised in the protest.
- G. After the exhaustion of administrative remedies the protesting party will be given our final decision. The Executive Director has the authority to make the final determination regarding all protests. If the protest is not resolved, and if FTA funded, a protest may then be filed with FTA within 5 working days after receipt of our final decision.

Note that FTA will only entertain a protest that the grantee failed to have or follow their protest procedures. A protest to FTA must be filed in accordance with [FTA Circular 4220.1F](#).

Bid Protest Procedures/Policy After Bid Opening/Post Award

A protest filed after a bid opening or post award must be filed within 5 working days after the bid opening or notice of award.

The types of protests most commonly filed after bid openings are varied, e.g., one in which the award is made to other than the low bidder, changes to the criteria during bid evaluation, bid compliance, etc.

RTA will grant the protesting firm a fair review, and allow up to 10 working days to review or appeal a decision provided no state or federal law has been violated.

It is the intent of RTA to resolve all protests at the local level.

All protests, including FTA funded projects, must follow certain guidelines.

- A. The protest must be submitted in writing within the specified time frame and sent to the RTA for determination (unless otherwise specified, five working days).

San Luis Obispo Regional Transit Authority
Attention: Deputy Director/CFO
253 Elks Lane
San Luis Obispo, CA 93401

- B. The protest must contain the reason(s) for the protest and recommend a remedy.
- C. Where appropriate, RTA will hold an informal conference on the merits of a protest with all interested parties allowed to attend. Interested parties may include all bidders/offerors and subcontractors or suppliers provided they have a substantial economic interest in a portion of the IFB or RFP.
- D. RTA will respond in writing within 10 working days after receipt of the protest. The response will be provided by the Deputy Director/CFO will include a response to each substantive issue raised in the protest.
- E. After exhaustion of administrative remedies the protesting party will be given our final decision. The Executive Director has the authority to make the final determination regarding all protests. If the protest is not resolved, and if FTA funded, a protest may then be filed with FTA within 5 working days after receipt of our final decision.
- F. RTA will allow for a request for reconsideration (if data becomes available that was not previously known, or there has been an error of law or regulation).

Note that FTA will only entertain a protest that the grantee failed to have or follow their protest procedures. A protest to FTA must be filed in accordance with [FTA Circular 4220.1F](#).

After a protest that has been rejected by the FTA the protesting firm may file with the Superior Court of the State of California, San Luis Obispo County, 1050 Monterey St, San Luis Obispo, CA 93408.

APPENDIX G SURPLUS EQUIPMENT AND SUPPLIES DISPOSAL STANDARDS

Purpose

When equipment or supplies are no longer needed for RTA services and are declared “surplus,” it shall be disposed of according to the policies and procedures outlined below. Disposal should follow competitive sales procedures (where applicable) to ensure the highest possible return. Service life of equipment is determined by acceptable industry standards for such equipment; the service life of FTA-funded rolling stock is determined in [FTA Circular 9030 Urbanized Area Formula Program](#). All net local share proceeds from the sale of transit equipment or supplies shall be deposited in RTA’s subaccount in the San Luis Obispo County Investment Pool for future transit capital needs.

Background

Since its inception, the RTA has used a combination of local, state and FTA funds to procure a variety of capital items. As such, the RTA must ensure that its disposal policy meets FTA requirements as outlined in [FTA Circular 5010 Grants Management](#).

Declaration of Surplus

In determining whether equipment or supplies shall be deemed surplus, the Executive Director, shall recommend to the RTA Board the following findings:

- A. RTA has or soon will have no practical, efficient or appropriate use for the equipment or supplies, nor will it have such a use for the equipment or supplies in the near future.
- B. The purpose served by the equipment or supplies can be accomplished by use of a better, less costly or more efficient alternative.
- C. The purpose served by the equipment or supplies or its use no longer exists as determined by a change of policy evidenced by a resolution of the Board.
- D. The equipment is or supplies are damaged, worn out or otherwise inoperable and the cost of repairing the same is unwise or impractical.
- E. All RTA markings and other agency-specific brands are removed from the equipment or supplies, and said items are ready for immediate transfer.

The Board will declare through resolution that said equipment or supplies are considered surplus and the method of proper disposal.

Assessment of Value and Related Procedures

The Executive Director will ensure that all items deemed surplus will be assigned a current fair market value using the methods described below:

- A. Original Purchase with Federal Assistance. Any item for which RTA purchased with federal assistance, will require a formal pricing analysis. The RTA will conduct a fair market value assessment with at least three sellers of like items, or obtain sales prices of like items that were sold in the past 12 months. If this data is not available, a straight-line depreciation method will be used. The RTA will devise a written report that outlines the information obtained, whether or not FTA funds were used to originally procure the item(s), and make a recommendation on an appropriate sales price. This report will be presented to the RTA Board for recommended action on disposal method.

Disposal Standards

The standards below will be used when determining how surplus equipment or supplies will be disposed and if reimbursement to FTA would be required. Records of any disposal of equipment or supplies that were originally procured using FTA funds will be maintained according to federal record-keeping requirements.

- A. Surplus Equipment Over \$5,000 Value. After the service life of equipment is reached, equipment with a current market value exceeding \$5,000 per unit, or unused supplies with a total aggregate fair market value of more than \$5,000, will be sold through public auction. Any remaining federal share must be returned to FTA. The federal share of the sales proceeds cannot be retained for public transportation use. If FTA funds were originally used to purchase the equipment or supplies, then RTA will reimburse FTA an amount calculated by multiplying the total aggregate fair market value at the time of disposal, or the net sale proceeds, by the percentage of FTA's participation in the original grant.
- B. Surplus Less than \$5,000 Value. Equipment with a unit market value of \$5,000 or less, or supplies with a total aggregate market value of \$5,000 or less, may be sold or otherwise disposed of with no obligation to reimburse FTA. All surplus equipment and supplies valued below this threshold may be auctioned, transferred to another organization or scrapped (as described in the *Surplus Vehicle Transfer Program* and *Unsalable Surplus Equipment and Supplies* sections below).
- C. Disposal Before End of Equipment Service Life. Any disposal of equipment before the end of its service life is subject to Board and FTA (if originally FTA-funded) concurrence in the method of disposal. If FTA funds were originally used to procure the equipment, the reimbursement amount is the greater of the FTA share of the unamortized value of the remaining service life per unit, based on straight line depreciation of the original purchase price or the FTA share of the sales price, even if the unamortized value is \$5,000 or less.
- D. Unused Supplies. Disposal of unused supplies before the end of the industry standard life expectancy is determined in total aggregate fair market value and if found to exceed \$5,000, RTA shall compensate FTA for its share if FTA funds were used to originally purchase the supplies.
- E. Involuntary Removal. When equipment is involuntarily removed from revenue service (i.e., loss through fire, collision, etc.) prior to the expiration of its useful life, the substitution of capital assets purchased with local funds for acquired with FTA funds is permissible when:
 - 1. Substituted equipment is of equal or greater value;
 - 2. Substituted equipment was procured in accordance with guidance contained in [FTA Circular 4220.1F Third Party Contracting Guidelines](#).
 - 3. Useful life criteria are adjusted to coincide with the original;
 - 4. Equipment is to be used in the programs or projects that are consistent with the purpose for which the original equipment was procured, as prescribed in this Policy;
 - 5. RTA amends its property records to include the equipment, as appropriate.

Surplus Vehicle Transfer Program

Although RTA's mission is to provide safe, reliable and efficient transportation services in San Luis Obispo County, the Board also recognizes that having a wide array of transportation options in the county improves quality of life and can enhance independence for some vulnerable members of our community. As such, the Board may declare through resolution that surplus vehicles can be transferred to organizations that the Board deems vital to improving transportation options for disabled, senior and low-income populations in the County. These organizations include, in the order of priority:

- A. Local governmental entities;
- B. Legal 501(c)3 non-profit organizations that provide transportation services in RTA's service area; and
- C. Private for-profit transportation providers that serve elderly, disabled and low-income residents and visitors solely within RTA's service area.

In order for surplus vehicles to be eligible for the Surplus Vehicle Transfer Program, the following criteria must be met:

- A. The receiving entity must declare in writing that it will use the vehicle(s) to enhance mobility options for elderly, disabled and low-income members of our community; and
- B. Surplus vehicles may or may not be in running condition; and
- C. RTA shall not perform any repairs to vehicles designated as surplus once the vehicle is removed from RTA revenue service; and
- D. Recipients of surplus vehicles assume full liability upon transfer of title; and
- E. Surplus vehicles are provided "As-Is, Where-Is" with no warranty expressed or implied as to condition or fitness of purpose.

Unsalable Surplus Equipment or Supplies

Surplus equipment or supplies which are unsalable because of obsolescence, wear and tear, or other reasons may be dismantled, if necessary, and sold as scrap. All net proceeds from the sale will be deposited in RTA's subaccount in the San Luis Obispo County Investment Pool for future transit capital needs.