

City of High Point
High Point, North Carolina



Procurement Manual
November 2019

FOREWORD

This procurement manual is intended for use as a guide to the City of High Point's purchasing methods and practices. When used properly and with common sense, the policies and procedures established herein will enable the City to obtain needed materials, equipment, supplies and services efficiently and economically.

The understanding and cooperation of all employees is essential if the City is to obtain the maximum value for each tax and utility dollar spent. While this manual does not answer all questions related to purchasing, it does provide the foundation for a sound centralized procurement system.

The goals of the City's procurement program are to:

- Ensure compliance with the legal and ethical requirements of public purchasing and procurement.
- Assure vendors that impartial and equitable treatment is afforded to all who wish to do business with the City.
- Stimulate competitive bidding in order to obtain materials and services at the lowest possible cost and to provide all interested vendors with the opportunity to offer their products to the City.
- Receive maximum value for each dollar spent by awarding purchase orders to the lowest responsible bidder, taking into consideration quality, performance, technical support, delivery schedule, past performance and other relevant factors.
- Provide City departments the required goods, equipment, and services at the time and place needed and in the proper quantity and quality and to maximize feasible standardization.
- Professionally administer the search for sources of supplies, the development of new sources, the selection of suppliers, negotiations, commitment, follow-up, and adjustments.
- Promote good and effective vendor relations, cultivated by informed and fair buying practices and strict maintenance of ethical standards.

By following the procedures and guidelines established in this manual, each department can efficiently manage, control and plan its available resources to meet present and future departmental needs and help the City to meet these goals. Should you have any questions about this manual or its procedures, contact the Purchasing Division at 336-883-3219.

LEGAL DISCLAIMER

By promulgating this manual, it is not the City of High Point's intent to create legal rights (including any property interest) in the policies or procedures set forth herein. Other than causes of action that exist pursuant to federal or state law that are independent of this manual, the failure of the City to comply with any policy or procedure stated in this manual shall not be the basis of any legal action.

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AUTHORITY FOR CITY PROCUREMENT

The securing of goods and services necessary for the operation of city government is a major administrative responsibility. Under the supervision of the Financial Services Director, this function of city government is the primary responsibility of the Purchasing Division.

The procedures involved in city contracting and purchasing must comply with relevant laws, namely, those of the City of High Point, the State of North Carolina, and where applicable, the Federal Government.

Authorization for the expenditure of funds in the purchasing of equipment, goods, supplies, and services, as well as the making of contracts, is granted, and certain restrictive policies prescribed, by various statutes and regulations enacted by these governmental bodies.

General corporate powers are ceded to the City of High Point and other North Carolina local governments by General Statute 160A-11. Vested with this authority, the City of High Point is empowered to enter into the purchasing of materials and the contracting of services. The conduct of competitive bidding is largely governed by Chapter 143, Article 8 of the North Carolina General Statutes.

Prior to entering into any agreement or contract, or making any purchase, the City must first have funds properly appropriated to meet its financial obligations. This verification of available and appropriated funds is accomplished through the preaudit certification as required by G.S. 159-28.

No contract or agreement requiring either the payment of moneys, or any requisition or purchase order for supplies or materials may be made unless an appropriation is in the budget and a sufficient unencumbered balance remains therein to pay the amounts to fall due thereunder during the fiscal year.

All commodity purchase contracts, construction contracts, service contracts and all other City related contracts excluding legal services exceeding \$90,000 and above, must be approved by City Council prior to full execution of such contracts.

Adopted by City Council on the 18th day of February, 2019.

Unless otherwise excepted specifically by reference below or statute, all City of High Point officers, employees, and programs will follow these published and adopted procurement policies.

- **City of High Point Transit System** - Purchasing requirements for the City of High Point Transit System will be completed using the City of High Point's general Purchasing Policies and Procedures and will further, where such is more restrictive, follow the Federal Transit Administration guidelines and requirements in accordance with **Appendix F** contained herein, and as may be changed from time to time as codified in CFR.

SCOPE OF RESPONSIBILITY

The responsibilities of the City of High Point Purchasing Manager are to:

- Establish and administer procurement procedures in accordance with established purchasing laws and local policy; and
- Operate a consolidated procurement function for the City.

The Purchasing Manager is charged with obtaining vendor quotations, terms, delivery codes, initiating contracts, initiating and completing all formal and informal bid proceedings, issuing purchase orders, maintaining an accurate inventory of central supply and disposing of surplus property in accordance with resolutions of the City Council.

The Purchasing Manager has the responsibility to question the suitability, quality or quantity of equipment, materials, or supplies requisitioned when experience or budgeting limitations indicates it to be advisable and can refer such requests to the Financial Services Director for approval. Discrepancies will be worked out in consultation with the requesting department and changes, if necessary, made with the requesting department's approval.

When the Purchasing Manager deems it advisable, it is his/her duty to inspect or to request the inspection of the quality or quantity of the merchandise received in order that the best interest of the City is served.

The Purchasing staff is charged with processing requisitions, negotiating vendor quotations, terms, delivery data, etc., and the issuing of purchase orders as directed by the Purchasing Manager.

Departments initiating participation in the purchasing process should notify Purchasing of the planned activity so that Purchasing may give assistance as needed. All purchases must be approved by the Purchasing Division.

No employee should indicate to any vendor or make commitment that their company product or service will be purchased until bids are taken, tabulated, and awarded by the proper authority.

Prices acquired for goods or services must be forwarded to the Purchasing Division. Bid/quoted prices should be considered privileged until the award is made. Vendors requesting pricing information should contact the Purchasing Division. Prices are not to be given to the public except through the Purchasing Division. Bid tabulations and records of awards are publicized on the City's website.

The City of High Point has adopted these regulatory policies as supportive to the City of High Point code of ethics necessary in public purchasing, for the protection of the integrity of the City and to insure equitable and fair treatment of all bidders and vendors doing business with the City.

DEPARTMENTAL RELATIONS

As a service agency for the City of High Point, the Purchasing Division desires to establish and maintain a close working relationship with each department.

It is essential that an attitude of cooperation and understanding exist between each department and Purchasing. The following guidelines will help to promote a successful and mutual partnership.

The Department should:

- Submit complete and detailed specifications to the Purchasing Division for equipment or special orders requiring written specifications.
- Maintain a close check on supplies of stock items.
- Forecast future requirements and requisition well in advance of needs.
- Whenever possible, eliminate emergency or rush purchases by planning ahead.
- Review outstanding purchase orders periodically and alert Purchasing if there is a concern about any order.
- Examine merchandise received to assure quality and quantity complies with specifications, and report promptly to the Purchasing Division any deviation in goods/services received.
- Submit to the Purchasing Division by written email or memorandum any complaint(s) against a vendor.

The Purchasing Division should:

- Check with user department on needs when placing consolidated orders.
- Inform Departments of all annual agreements that might be utilized, both City wide and departmental.
- Consult with originating department when technical equipment, special order specifications, plans, or designs are involved.
- Advise department of predicted shortages, price changes, or other pertinent market or vendor data.
- Endeavor to expedite emergency purchases on same day as requested, so that normal operations of a department are not disrupted.
- Work with user department and supplier on partial deliveries, cancellations, returns of merchandise, and complaints.
- Inform the ordering department director and/or his/her delegate of formal or informal prebid conferences and bid openings.
- Review bids and quotes received with department director or delegate and receive the department's recommendation before making contract award or issuing a purchase order.

OTHER CONSIDERATIONS

Conflict of Interest-City

“No member of the City Council, officer or employee of the City of High Point shall have any direct or indirect economic stake in any entity participating in the programs of the City, and the City shall not employ any individual who has a stake in such entity. It is the policy of the City that no member of the City Council, officer or employee of the City shall receive any personal or private benefit resulting from the activities of the City or from the receipt by the City of funds from the State of North Carolina or from any other source, apart from reasonable compensation for services rendered and reimbursement for reasonable expenses incurred in the conduct of the business of the City. The City Council shall have the power to make such rules and regulations concerning conflicts of interest as it deems appropriate from time to time.”

Adopted by the City Council on the 18th day of March, 1999.

Conflict of Interest-Public Officials and Employees

(Excerpt from the City of High Point Personnel Resolution) The conduct of public business shall be free of any hidden personal or financial interest of any public official or employee. No public officials or employees shall advocate in any public meeting or private discussion any matter in which they have a personal or financial interest except upon full and timely disclosure of the interest.

Standard of Conduct-Public Officials and Employees-Gifts and Favors

(Excerpt from the City of High Point Personnel Resolution) The conduct of public business shall be free of any influence arising from gifts, favors or special privileges. It is the obligation of every public official and employee to refuse personal gifts, favors or special privileges in every instance where such public official or employee reasonably believes such gift, favor or special privilege would not have been extended but for the position of such public official or employee, or where there exists a reasonable belief that the giver's interests are likely to be affected by the actions of the public official or employee, or where the gift is or may reasonably be considered to be designed to influence the actions of the public official or employee. No public officials or employees shall seek personal or financial advantage by means of their public office, appointment or employment.

It is a “Class One Misdemeanor” for every instance it is offered and/or accepted!

Local Buying Preference

It is the desire of the City to purchase from vendors located within the City of High Point and the State of North Carolina whenever possible. This objective is best accomplished by insuring that local vendors who have goods or services available and are needed by the City are included in the competitive purchasing process. The City has a responsibility to its taxpayers and ratepayers to ensure that maximum value is obtained for each public dollar spent. **The City cannot and will not make purchasing decisions solely on the basis of vendor residence.** Rather, the City will endeavor to encourage city, county and state vendors and suppliers to register and compete for all City business.

Exchange of Information

It is the objective of the Purchasing Division to stay informed and current of new products, market trends, and new sources for materials and supplies.

Department directors and their personnel will acquire useful information through technical exhibits, seminars, and contacts with colleagues and vendors from other areas. Learning then becomes a two-way flow when such knowledge is shared with Purchasing and other interested departments.

This may be accomplished either by e-mail, sharing of web-site information and exchange of descriptive literature, inter-office memorandum, or verbal communication. From the initiation of a requisition to delivery of order, the Purchasing Division team members should coordinate all action toward accomplishing the desired objective: *"A consistently efficient procurement performance for the participating departments"*.

Only through a harmonious working association can Purchasing effectively function in its role as a service/support agency for all City departments as expected.

Who to Contact in Purchasing

TOPIC	WHO TO CONTACT	TOPIC	WHO TO CONTACT
Agreement for Services Process	Rachel	MWBE Questions	Erik
Annual Contracts Listing	Rachel	Office Depot	Libby/Amanda
Bank of America – Works System	Libby/Amanda	P-Card Questions	Libby/Amanda
Bid Thresholds	Erik/Libby	Sole Source Requests	Erik
Bids – Informal - \$30,000 - \$89,999.99	Libby	State Contracts	Purchasing Inbox
Bids – Formal - \$90,000.00-\$299,999.99	Libby	Supplemental Agreements (On-Call Services)	Rachel
Bids – Formal - \$300,000.00 and Up	Erik	Training-Purchasing/P-Card/Lawson	Libby/Amanda
Bids – Request for Proposals/Request for Qualifications	Erik	Vendor Set-up	Purchasing Inbox
Certificates of Insurance	Rachel	Vendor Request for CHP Credit References or CHP W-9	Purchasing Inbox
Cooperative Purchasing Entities	Purchasing Inbox	Website Information	Purchasing Inbox
Copier/Printer/Scanner, Uniforms - (Ricoh/Cintas)	Erik	Warehouse Information/Surplus/Electric Bids	Josh
Lawson Questions-RQ10, Vendor Search, Receiving	Libby/Amanda		
CONTACT INFORMATION			
amanda.garner@highpointnc.gov		libby.rush@highpointnc.gov	
erik.conti@highpointnc.gov		purchasing@highpointnc.gov	
joshua.williams@highpointnc.gov		rachel.kaplan@highpointnc.gov	

The Procurement System

THE PROCUREMENT PROCESS

The procurement process is designed to provide a proper system of internal control over purchasing, to ensure that the proper authorizations are obtained before items are procured, and to ensure that statutory requirements for procurement are followed. Several forms are generated as part of the procurement process to document the validity of the purchases. This process and the documents used by the City of High Point are described in this section.

Methods of Procurement

The procurement method to use will be determined by the estimated cost of the product/service being procured. Methods are as follows:

- Purchase Order
- Procurement Card
- Informal Bid
- Formal Bid
- Request for Proposals (RFP)
- Qualification-Based Selection (RFQ) Mini Brooks Act Services

➤ **Purchase-Order System**

The basic document in the procurement system is the purchase order. No Purchase Order can be processed until the Purchasing Division receives an “Authorized” electronic requisition from the ordering department. No invoice may be honored for commodities unless it is supported by a properly signed purchase order. The purchase order is pre-numbered for control purposes and should include complete specifications or reference to specifications, as well as shipping and invoicing instructions. Copies of the approved purchase orders should be transmitted to and filed by various divisions within the City for future use/reference.

Preparation of the requisition is the first step in the purchase order process. A requisition (request for a purchase order) should be prepared by the department director or approved personnel requiring purchased commodities and then forwarded to the Purchasing Division via the ERP Financial System. The requisition should show the quantity and type of commodities needed, the purpose for which they are to be used, and the date required.

On receipt of the requisition from the department, the Purchasing Manager/Buyer reviews the requisition for the commodities needed. Based on proposed spending amount (bid thresholds) he/she then reviews or solicits quotes from various vendors, following the price quote, informal written quotes or formal bidding procedures as necessary.

If the commodity is financed with special funds through federal and/or State grantor, the required federal clauses and/or regulatory provisions must be attached to the purchase order/contract. As applicable, the user is directed to see the appropriate grantor appendices to the Policies Manual.

The Purchasing Manager may not certify any requisition unless sufficient unencumbered funds are available to pay the purchase order obligation when it is due. The ERP financial software evaluates the funds available during the obligation and approval process.

Once the purchase order is approved, a minimum two copies of the purchase order should be generated. The original purchase order is sent to the vendor, preferably by email. One copy is emailed to the requisitioning department.

➤ **Open-Ended (Blanket) Purchase Orders**

Open-ended purchase orders may be used for many repetitive, usually low dollar value, purchases from one vendor. Rather than issuing a purchase order for each purchase, one purchase order with a total dollar limit is issued for a specified period. Not requiring a purchase order for each item reduces internal control; however, with the low-cost items purchased under this system, the costs of the additional controls outweigh the benefits. For open-ended purchase orders, the purchasing manager should provide to the appropriate department directors a list of vendors and items to be purchased from those vendors, along with a purchase order number for the current period, e.g. one month, and the total amount encumbered. To maintain adequate controls, purchase transactions over a specified maximum amount should be allowed only after contacting the Financial Services Director. This transaction maximum would vary depending on the type of items and prior purchasing history. The total maximum dollar-limit amount of the authorizing purchase order will still be encumbered. One problem with open-ended purchase orders is the vendor ultimately determines when an agency's employees can charge purchases to the order. Procurement cards can eliminate this problem.

➤ **Procurement Cards**

Procurement cards (also known as purchasing cards) enable a unit to make small purchases more quickly and efficiently by minimizing paperwork and processing time. Similar to VISA and MasterCard formats, procurement cards can be processed by vendors just like personal charge cards. Rather than making multiple small payments to many vendors, the organization makes one disbursement to the card provider. Vendors receive payment within a few days of the transaction without extra paperwork. Posting information and transaction detail can be reviewed and authorized by the cardholder throughout the month and reconciled to the monthly statements prior to payment, thereby significantly reducing data entry tasks in accounts payable. Inventories can be reduced or eliminated, since items are now purchased when needed. As with any type of purchasing procedure, adequate controls must be established to ensure that public funds are expended properly. These include built-in transactional limits for any one card, cardholder education, pre-audit certification, and supervisory review procedures. Purchases can be limited by amount per transaction, total per time period, number of purchases per time period, Merchant Category Codes, etc. Each card can be encoded with specific controls unique to the cardholder's job responsibilities. These controls also can be enacted on individual, divisional, or departmental lines.

The City has established a Procurement Card System Manual to govern the system. **(Appendix E)** Cardholder education includes informing card users of all procedures, regulations, etc. and the consequences of improper use. As a condition to have a procurement card, cardholders sign acknowledgements that they have been trained, read, and understand these rules prior to receipt of a card. Cardholders are also trained to verify and code monthly statements to facilitate uploading of information into the accounting system. Sales tax for refund purposes can also be coded at this point. The purchases made via procurement cards are subject to the pre-audit certification requirements. Open purchase orders can be prepared to cover estimated procurement card expenditures over a specific period of time. Typically, a set amount will be encumbered to cover purchases through procurement cards during the period. After cardholders have verified and coded their monthly statements, supervisors should review the transactions and cost receipts. After

departmental approval, procurement card details can be uploaded into the accounting system and the payment can be processed. Transaction data can be analyzed to determine trends and exceptions and used for expenditure and budgeting projections.

➤ **Informal Bids**

Informal bids shall be utilized and processed for both the procurement of commodities/services and construction projects based on the following threshold amount of the estimated expenditure.

- Commodity or Service (*See note below) \$30,000 to \$89,999
- Construction \$30,000 to \$499,999

➤ **Formal Bids**

Formal bids shall be utilized and processed for both the procurement of commodities/services and construction projects based on the following threshold amount of the estimated expenditure.

- Commodity or Service (*See note below) \$90,000 and Above
- Construction \$499,999 and Above

➤ **Request For Proposals (RFP)**

RFP's may be utilized when the department is seeking a service but may be uncertain as to what they are actually seeking and wishes to obtain proposals from vendors that will be evaluated, and a selection made based on best proposal submitted. Scope of work, qualifications and pricing may be requested in an RFP for consideration.

➤ **Request For Qualifications (RFQ) Quality Based Selection Process (Mini Brooks Act)**

RFQ's are normally utilized when selecting "Design Firms" to include Architects, Engineers and Geotechnical/Materials Testing firms. This is a complete "Quality Based Selection Process" which is requesting proposals for qualifications "ONLY" and price may not be requested and/or included. Certain guidelines and exemptions apply based on amount per the requirements of the Mini Brooks Act per below and a Q&A sheet referencing the Mini Brooks Act is provided as **Appendix D**.

- RFQ required for design work over \$50,000.
- RFQ not required is amount of design work is under \$50,000 but an "Exemption" must be processed and approved by Finance Director and City Manager/Deputy Manager prior to engaging with firm and the amount cannot exceed the threshold of \$50,000.
- RFQ would not apply to City "On-Call" firms already selected via RFQ.
- Selection process must be approved by council before proceeding with agreement.

*** Services**

Although services are not required statutorily to be bid, the City will bid such services if deemed biddable and the decision to bid or not will be left to the discretion of the purchasing manager depending on the service being pursued.

Records

The purchasing records show materials/services that have been ordered but not delivered or paid for (open purchase orders). They also furnish supporting information for the payment of claims. Purchasing records are invaluable in making future purchases because they show prices, quantities, and vendor performance on previous orders. Also, they aid in budgeting because they contain a record of quantities of each kind of purchase required during the preceding year. The accounting records, in turn, show amounts encumbered and amounts expended, by accounting period, for purchased items.

Receiving

The receiving report, receiving copy of the purchase order, the delivery ticket, or some other written verification, should be sent to Accounts Payable for processing. For construction projects, the Architect, Professional Engineer, or Construction Management Consultant overseeing the project will issue a report certifying that construction has been completed and approved. The Department Director or authorized position should ensure that sufficient data are provided to ascertain the date, quantity, description, and condition of items received. The department should not approve interim billings without monitoring the progress of construction projects. Also, with regards to services, the department should verify that the services are being performed before approving interim invoices.

Payment of Vendor's Invoices

The Department Directors and Division Managers should provide to the Treasury Services Division, on a timely basis (taking full advantage of vendor discounts), those documents and data needed to consider/approve vendors' invoices. These documents/data include a copy of the purchase order with expected unit prices, returns/allowances data, and notification of any exceptions/discrepancies between goods ordered and those received.

Electric Department Bids for Commodity/Equipment Purchases

The Warehouse Manager will facilitate all commodity/equipment bids for the Electric Department as required by the department. Construction project bids will be facilitated through the Purchasing office.

The City of High Point will adhere to North Carolina Statutory Guidelines pertaining to bidding requirements, procurement methods and dollar thresholds unless otherwise noted in the following section of this manual.

NORTH CAROLINA BID LAWS & PUBLIC CONTRACTING STATUTES

The main competitive bidding requirements for local government are contained in Article 8 of Chapter 143 of the North Carolina General Statutes [hereinafter G.S.]. Most formal bidding requirements are set forth in G.S. 143-129, and informal requirements are found in G.S. 143-131.

These statutes apply to the “expenditure of public money” within established dollar limits and on certain types of contracts. All funds appropriated in the City’s annual and/or capital and grant budgets, regardless of funding source, are subject to the statutes.

Statutory bidding requirements generally apply to the following categories of contracts:

- Contracts for the purchase of apparatus, supplies, materials, or equipment
- All types of personal property
- Apparatus, supplies, materials or equipment
- Contracts for construction or repair work
- Horizontal construction (roads, utilities and other infrastructure)
- Vertical Construction (buildings and other structures)
- Contracts with architects, engineers, surveyors and construction managers at risk (Procured by utilizing RFQ quality-based selection process rather than by Bid) G.S. 143-64.31

Statutory bidding requirements generally do not apply to the following categories of contracts:

- Service contracts (The City of High Point will bid services if deemed biddable by the purchasing manager even though not required by statutory guidelines)
- Purchase of real property
- Lease of personal property (note that a lease-purchase or lease contracts with the option to purchase are subject to the bid laws)
- Equipment rental

Statutory Dollar Thresholds

The City will adhere to the statutory dollar threshold amounts as set forth by **G.S. 143-129/131** and the following City threshold levels are based on these statute amounts outlined in the following pages and also in chart form in **Appendix A**.

Adopted by City Council on the 6th day of May, 2019.

CITY OF HIGH POINT DOLLAR THRESHOLDS & PROCUREMENT PROCEDURES FOR:

COMMODITY PURCHASES AND SERVICES

Up to \$9,999 (Micro-Purchases)

- May be made without obtaining price quotes
- Always Seek Best Value
- Local procurement guidelines must be followed
- Equitable distribution among qualified suppliers
- No splitting of procurements to avoid competition
- Minimum documentation required:
 - How price was determined to be fair and reasonable (comparison of catalog/online prices, etc.) and which vendor was selected, online quotes acceptable.
- Award authority: **Department Director and/or Designee**

\$10,000 - \$29,999 (Departmental Price Quotes)

- Solicit at least 3 bidders (must receive three quotes on vendor letterhead)
- Purchases must be recommended by the Department Director or Assistant Department Director and approved by the Purchasing Manager. The approval authority must ensure required procurement procedures were followed, funds are available, and that the procurement history file has been properly documented.
- Minimum documentation required:
 - minimum of 3 quotes on vendor letterhead or company email address must be received) and Minority firms should be solicited and documented when possible
 - Document which vendor was selected--if vendor with lowest price is not selected, include basis/reason for selection (delivery date; better warranty/service; etc. negative history that is documented) Save supporting documentation to file
- Award authority: **Purchasing Manager** \$10,000 - \$29,999

\$30,000 - \$89,999 (Informal Bid)

- Informal bids will be received in the Purchasing Division as scheduled with Department usually by 2:00 p.m. of the bid due date.
- All bids submitted shall be accepted until the deadline for submissions. Bids submitted after the set deadline shall not be accepted.
- Only one (1) Bid required to open.
- Bids shall be opened by the responsible buyer who will distribute bid tabulations and any necessary backup information to the requesting department for review.
- Department shall submit a recommendation form to purchasing.
- Award authority: **Financial Services Director** \$30,000 - \$89,999

\$90,000 and Above (Formal Bid)

- Formal bids will be received in the Purchasing Division as scheduled with Department usually by 2:00 p.m. of the bid due date.
- All bids submitted shall be accepted until the deadline for submissions. Bids submitted after the set deadline shall not be accepted.
- Only one (1) Bid required to open.
- Bids shall be opened by the responsible buyer who will distribute bid tabulations and any necessary backup information to the requesting department for review.
- Department shall submit a recommendation form to purchasing.
- Bid award authority: **Council Approval** \$90,000 and Above

CITY OF HIGH POINT DOLLAR THRESHOLDS & PROCUREMENT PROCEDURES FOR:

CONSTRUCTION AND RENOVATION

\$30,000 - \$499,999 (Informal Bid)

- Informal bids will be received in the Purchasing Division as scheduled with Department usually by 2:00 p.m. of the bid due date.
- All bids submitted shall be accepted until the deadline for submissions. Bids submitted after the set deadline shall not be accepted.
- **Only one (1) Bid required to open.**
- Bids shall be opened by the responsible buyer who will distribute bid tabulations and any necessary backup information to the requesting department for review.
- Department shall submit a recommendation form to purchasing.
- Bid award authority: **Financial Services Director** \$30,000 - \$89,999
Council Approval \$90,000 and Above

\$500,000 and Above (Formal Bid)

- Formal bids will be received in the Purchasing Division as scheduled with Department usually by 2:00 p.m. of the bid due date.
- All bids submitted shall be accepted until the deadline for submissions. Bids submitted after the set deadline shall not be accepted.
- **Three (3) Bids required to open.**
- If three (3) bids are not obtained, the project shall be re-bid and bids may be opened with less than three (3) bids.
- Bids shall be opened by the responsible buyer who will distribute bid tabulations and any necessary backup information to the requesting department for review.
- Department shall submit a recommendation form to purchasing.
- Bid award authority: **Council Approval** \$500,000 and Above

FORMAL BIDS (GS143-129)

Formal Bids are Required for:

- Construction or repair work with an estimated expenditure of \$500,000 and above
- The procurement of apparatus, supplies, materials and equipment with an estimated expenditure of \$90,000 and above

Other Requirements for Formal Bids:

Advertisement

- Bidding opportunities must be advertised in a newspaper having general circulation in the City as required by City Administration in addition to electronic advertising.
- The advertisement must appear one time and at least a full seven days must lapse between the date on which the advertisement appears and the date of the opening of bids.
- The advertisement shall state the time and place where plans and specifications of proposed work or a complete description of the items may be obtained.
- The advertisement shall state the date, time and place for the opening of proposals.
- The advertisement shall reserve to the City Council the right to reject any or all proposals.

INFORMAL BIDS (GS143-131)

Informal Bids are Required for:

- Construction or repair work with an estimated expenditure of \$30,000 – \$499,000
- The procurement of apparatus, supplies, materials and equipment with an estimated expenditure of \$30,000 – \$89,999

Advertisement

- Although not fully required, the City will advertise in a newspaper having general circulation in the City for construction projects.
- The advertisement must appear one time and at least a full seven days must lapse between the date on which the advertisement appears and the date of the opening of bids.
- The advertisement shall state the time and place where plans and specifications of proposed work or a complete description of the items may be obtained.
- The advertisement shall state the date, time and place for the opening of proposals.
- The advertisement shall reserve to the City Council the right to reject any or all proposals.

CITY OF HIGH POINT BIDDING PROCEDURES

Request for Bids

The process of procurement by formal and informal competitive bids is initiated by the Department requesting a bid to be processed. The department will provide the following information to purchasing to initiate the bid process:

- Bid Information Form
- Estimated cost of project
- Specifications on required commodity and/or service

Required Information for Construction Project Bids

- Bid Information Form
- Estimated cost of project
- Specifications with Cover & Seal if desired
- Scope of Work Summary
- Plans/Drawings
- Proposal Format
- Number of Days to complete project
- Liquidated Damages Amount

SPECIFICATIONS

The main objective of specification writing is to clearly define project or product needs resulting in getting a project done or product delivered on time, as specified, at the lowest possible cost; and without the necessity of change orders that could increase costs.

Local government entities are directed by North Carolina General Statutes, local policy and other specific guidelines on when specifications are required and who must prepare them.

The Purchasing Division's responsibility is to see that specifications are developed for the procurement of all goods, services and construction or repair work covered by General Statutes and City policy.

Specifications are an Accurate Written Description of the Products or Services Needed. All Specifications Should Accomplish at Least Four Things:

- Identify minimum requirements
- Encourage competitive bids
- Be capable of objective review and evaluation
- Provide for an equitable award at the lowest possible cost

Methods of Structuring Specifications May Include:

- Qualified products on acceptable vendor list
- Specification by blueprint or dimension sheet
- Specification by chemical analysis or physical properties
- Specification by performance, purpose or use
- Specification by identification with industry standards
- Specification by samples

Specifications Should:

- Clearly define the product or service to ensure that a supplier or contractor can accurately produce the needed product or service.
- Be clearly defined and simple to ensure all vendors are treated fairly and equally, and to prevent one bidder from having an advantage over competitors.
- Encourage competition by assuring that no one vendors' product is specified to the exclusion of others.
- Define product and service needed, while at the same time remembering this is an expenditure of public funds. Specifications should describe the quality and service level required, while not specifying products or services that exceed the requirements for which the materials or services are intended. Quality is defined by need; that is, the item or service is both economical and best suited for the particular use to which it will be put.
- Use brand names only when absolutely necessary. Brand Name specifications must include the term "or approved equal" to avoid eliminating competition. Brand name should be used only when no other of its kind would be equally satisfactory, or when there is no reasonably adequate way to sufficiently describe the requested product.

Specifications are Generally Prepared by:

The requesting department, in consultation with Purchasing, plays an active role in preparing specifications for the materials or services required.

Outside Architects or Engineers, in consultation with the requesting department and Purchasing.

The Purchasing Division maintains a complete up-to-date file of previously prepared specifications as well as other resources that are available for the preparation of new specifications.

Important Notes About Specifications

- They are the core of a future contract, which is subject to a stringent set of concepts and rules.
- The contract will be presumed complete at the time of contract award.
- It is costly to the City when it becomes necessary to add items or services by supplementary agreement or change order because they were inadvertently left out of the specifications.

Properly written specifications are the department's greatest asset and will provide the tools necessary to evaluate bids received and make an informed recommendation for award to the lowest responsive, responsible bidder meeting specifications.

The Purchasing Division Will:

- Send a notice to bidders for formal bids which will be published in the legal notices of the "official" newspaper of the City.
- Post all bid opportunities, both formal and informal, in the Purchasing Division section of the City's website at www.highpointnc.gov/purchasing . Post all addenda to the website.
- Distribute notification of bid opportunities to all prospective vendors on file in the Purchasing Division who may be able to provide the required items or services. The Purchasing Division maintains a current vendor list based on commodity and class of service.
- Maintain accurate records of all vendors who have requested or have been sent notification to assure that they will be informed of any necessary changes or addendum.
- Provide only explanatory information concerning the proposals verbally. Information or changes regarding bids and proposals shall be by addendum in writing and furnished to all vendors who have requested or have been sent notification.
- Ensure that all minority or small business enterprises pursuant to any invitation to bid, advertisement or solicitation, are given full opportunity to submit bids and/or proposals and will not be discriminated against on the basis of race, color, sex, physical handicap, or national origin in consideration of an award.
- At the time and date specified, the sealed bids will be opened and recorded. The proposals and specification will be checked for accuracy and, where applicable, samples will be requested for testing. Tabulations will be prepared and made available for review on the Purchasing Division's website and in the Purchasing Division office.
- The Purchasing Manager, along with the Director of the requesting department, will review the bids and prepare a recommendation to be submitted to the High Point City Council through the City Manager. The award will be made to the vendor/contractor based on the lowest and/or the most responsive and responsible bid meeting specifications.

**BID SUBMITTAL REQUIREMENTS
&
AWARD CRITERIA**

Bid Bond Deposit

No bid for formal construction or repair work shall be considered or accepted unless at the time of its filing it is accompanied by a deposit equal to not less than five percent (5%) of the bid amount. The bid deposit may be in any of the following forms:

- Cash
- Cashier's Check
- Certified Check on a bank or trust company insured by the Federal Deposit Insurance Corporation.
- In lieu of the above, the deposit may be in the form of a bid bond executed by a corporate surety licensed under the laws of North Carolina.

The bid deposit shall be retained if the successful bidder fails to execute the contract within 10 days after the award or fails to give satisfactory surety as required by law.

Bid deposits are not required for purchase contracts but may be required if the local government determines it is in its best interest to do so.

As a matter of policy, the City of High Point has waived the requirement of such bond in the purchase of motor vehicles.

Performance and Payment Bonds

When the total of a construction or repair project exceeds \$300,000, the successful bidder must provide performance and payment bonds for the full amount of the contract. In the case of multi-prime contracts bonds must be provided for each contract exceeding \$50,000.

The contractor may provide cash, certified checks, or government securities in lieu of bonds.

Minority and Historically Underutilized Business Participation Goals (MWBE - DBE)

A verifiable goal for participation is required for local construction projects. The State goal of 10 percent is to be used for projects of \$100,000 or more involving State-appropriated or grant funds, unless a preexisting local goal is justified.

A verifiable goal for participation is required for all construction projects of \$300,000 or more when local funding is used.

Good faith efforts to encourage participation by minority and/or historically underutilized businesses must be made by the public agency and by the bidders. Failure of a bidder to comply with the requirements is grounds for rejection of the bid.

Minority and historically underutilized business is defined by statute and includes businesses owned by ethnic minorities, women, and socially and economically disadvantaged individuals.

Agencies must comply with reporting requirements established by the State Department of Administration and must document good faith efforts made and participation obtained for each project.

Dispute Resolution and Rules

Dispute resolution procedures must be provided for all building construction projects, regardless of the dollar value (but the procedures may establish a minimum amount in controversy of \$15,000). Local governments may adopt procedures established by the State Building Commission or may establish their own. Procedures must provide the option of using mediation and must be available for all parties involved in the project, including the architect, the contractors, and subcontractors at all levels. The City of High Point has adopted Dispute Resolution Procedures which are included in a subsequent section.

Receipt and Opening of Bids

All proposals must be opened in public. Bids shall be sealed and not opened until the date and time stated in the proposal.

Three (3) bids are required in the formal range for construction projects. If three bids are not received, a second advertisement must be made, after which a contract may be awarded even if fewer than three bids are received.

Public records law states that bids are subject to public inspection once opened.

Withdrawal of Bid Because of Error

A bidder submitting a bid for construction or repair work, or for the purchase of apparatus, supplies, materials or equipment may be allowed to withdraw his bid from consideration after the bid opening without forfeiture of bid the security providing that:

- The request is made in writing within 72 hours after the opening of bids, including nights and weekends
- The bid was submitted in good faith
- The bid was based upon a mistake which constituted a substantial error
- The bidder submits credible evidence (original work papers, documents drawings, etc.) that the mistake was clerical in nature as opposed to judgment error and was due to an unintentional and substantial arithmetic error or an unintentional omission of a substantial quantity of work, labor, apparatus, supplies, materials, equipment or services made directly in the compilation of the bid.

After Receipt of a Request for Bid Withdrawal is Received the City Shall:

- Promptly schedule a hearing on the request and notify the bidder of the time and place of the hearing
- The bidder may appear at the hearing to present additional facts and arguments in support of his request
- The City shall issue a written ruling allowing or denying the request to withdraw within five days after the hearing
- If the City denies the request, the bidder has twenty days to contest the denial in any court of competent jurisdiction in the State of North Carolina

If the City Permits the Request, the Bidder May Not:

- Supply any material or labor to, or perform any subcontract or work agreement for any company which receives a contract or subcontract for work on the project for which the bid was withdrawn
- May not, under any circumstance, rebid the project for which the bid was withdrawn

Standards of Award

Award shall be made to the “**lowest responsible, responsive bidder or bidders** taking into consideration quality, performance and the time specified in the proposals for the performance of the contract.

The term “**Responsible**” has been interpreted to imply “skill, judgment and integrity necessary to the faithful performance of the contract, as well as sufficient financial resources and ability.”

The term “**Responsive**” has been interpreted to imply “that the bid conforms substantially to the specifications”.

Bid responsiveness involves the question of whether the bid, as submitted, represents an unequivocal offer to do exactly what the City has specified, so that acceptance of the bid will bind the contractor to meet the City's requirements in all material aspects. Any and all bids judged to be non-responsive must be rejected. Examples of bids typically considered non-responsive include:

- The bid fails to conform to material requirements;
- The bid does not conform to applicable specifications (unless the invitation permits alternates)
- The bid fails to conform to delivery schedule or permissible alternates

- The bid imposes conditions that would modify the requirements of the invitation or limit the bidder's liability to the entity.
- There is a condition of the bid which affects the substance of the bid (i.e., affects price, quantity, quality, or delivery of the items offered) or works an injustice on other bidders.
- The bid contains prices for line items that are materially unbalanced, i.e., figures in the bid conflict with the total bid price; date.
- The bidder fails to furnish a bid guaranty in accordance with the requirements of the invitation; or
- When there are lower bids than the bid being accepted for award, the award decision document must give the reasons for rejecting the lower bids. When there are equal low bids, the documentation must describe how the tie was broken.

Contracts for construction or repair work in the formal bid range must be awarded by the City Council.

The City Council may delegate to the City Manager or Purchasing Manager, or both, the authority to award purchase contracts in the formal range. The City Council of the City of High Point has not designated formal contract award authority to any appointed staff.

Contract Execution

All contracts resulting from this section shall be executed in writing. Contracts will be prepared and distributed as described in the Contracts and Agreements Section. It shall be required that the person to whom contract award is made shall furnish with the contract:

- 100% Performance and Payment Bonds on a surety company authorized to do business in the State of North Carolina, or require a deposit of money, certified check or government security for the full amount of the contract for the faithful performance of the contract. Such surety bond as required shall be held in purchasing and filed with the contract.
- Certificate of Insurance proving insurance coverage for the types of coverage and amounts prescribed in the bid specifications.
- Current State of North Carolina Business Registration with Secretary of State.
- No such contract shall be altered except by written agreement of the contractor, the sureties on his bond, and the governing body.
- Contracts must be signed by the President of the company or an authorized designee.

Formal Bids are Not Required for the Following: (See page 32 for all exceptions)

State of Emergency – In case of special emergencies involving the health and safety of the people or of their property, the City Council may authorize the awarding of contracts without going through the bid procedure.

If the contract is with: The United States of America or any of its agencies, or any other governmental unit or agency for the purchase, lease or other acquisition or any apparatus, supplies, material or equipment.

For construction or repair projects where the total cost of the project does not exceed \$125,000 or the total cost of labor does not exceed \$50,000 and the work is to be done by the employees of the government unit. (N.C. General Statute 143-145).

Negotiation of Price

The formal bidding statute allows the unit to negotiate with bidders only when all bids exceed the funds available for the project or purchase. The statute authorizes the local government to negotiate with the lowest responsible bidder and make “reasonable changes” in the plans and specifications as necessary to bring the contract price within funds available.

Bid Award

AWARD CRITERIA: As provided by Statute, award will be based on the lowest and best (defined as responsive and responsible) bid(s) most advantageous to the City of High Point as determined by consideration of the following:

- Price
- Quality of products offered
- General reputation & performance capabilities of bidder
- Proven performance of equipment or goods offered
- Conformity with intent of specifications herein
- Bidder's previous performance in contract with the City
- Conformity with the terms and conditions of the Invitation for Bid
- Adequate availability of service and parts
- Delivery

Bid Award Recommendation Forms

Bid award recommendation forms are available on the Purchasing Intranet site. Bid forms should be completed as follows:

- Formal Bids - Complete City Council Recommendation Form
- Informal Bids – Complete Department Recommendation Form

Recommendation forms should be signed electronically and e-mailed to the Purchasing Division

After Bid Award

Purchasing shall obtain/prepare a contract as appropriate and issue purchase order

Contracts will be distributed to appropriate authorities for signature

Signed copies of contracts will be distributed as follows:

- Purchasing Division
- City Clerk
- Department
- Vendor

Purchase orders will be distributed as follows:

Vendor – Original will be e-mailed to the vendor

Department – A copy will be e-mailed to the using department

Withdrawal of Bids

Bids received on construction projects may be withdrawn after the bid opening without forfeit of the bid security if the following conditions are met:

- The bid was submitted in good faith
- The bid was based upon a mistake which constitutes a substantial error
- The bidder submits evidence (original work papers, document, etc.) showing the mistake was clerical in nature as opposed to judgment error and was due to an unintentional omission of at substantial quantity of work, labor, material or service.
- Contract has not been signed by vendor

A request to withdraw must be made in writing before the contract is awarded, but no later than 72 hours after opening of the bid. When a request to withdraw is received, the City shall promptly hold a hearing on the request and shall notify the bidder of the time and place of the hearing. The bidder or counsel may appear and present any evidence to support his request to withdraw. For the purpose of this requirement, the City Manager shall conduct the hearing.

Upon completion of the hearing, the City shall issue a ruling either approving or denying the request to withdraw. If the City denies the request, the bidder has 20 days to contest the denial in any court of competent jurisdiction in the state of North Carolina.

No bidder who is permitted to withdraw a bid may supply any material, labor, perform, and subcontract or work agreement for any company which receives a contract or subcontract for work on the project for which the bid was withdrawn.

If the project is to be rebid, the bidder requesting to withdraw may not, under any circumstance, rebid the project.

Negotiation of Price

In the event bids received are in excess of the funds available for the purchase, the governing body is authorized to enter in negotiations with the lowest responsible bidder by making changes in the plans and specification in an effort to bring the contract price within the amount of funds available.

Testing and Evaluation of Equipment

The testing and evaluation of equipment or supplies is sometimes necessary prior to bid award. Bid requests for materials, apparatus, supplies or equipment which might require a demonstration contain the following language:

Bidder must be capable of demonstrating proposed equipment within seven (7) consecutive calendar days after notification at no additional cost to the City. If required, this will be a comprehensive demonstration at a site designated by the City with hands-on participation by agency operator(s) if necessary. Bids that fail to comply with this requirement may be subject to rejection.

The Purchasing Division should be notified when departments require a demonstration before making award recommendation. Purchasing will either contact the vendors involved or give department personnel contact information so they may arrange for the equipment testing and evaluation.

Evaluators should:

- Outline criteria and methods to be used in testing and evaluation
- Keep accurate records of each vendor's performance based on established criteria
- Record the name of the vendor, equipment description, and make and model for each product evaluated
- Give an opportunity to each vendor having products which should be considered
- Submit evaluation criteria for each vendor with bid award recommendation form.

Freight Definitions

All formal and informal bids received by the Purchasing Division are quoted Freight on Board Destination (F.O.B.) with all freight and transportation charges included in the bid price.

F.O.B. Destination

The supplier includes in its price the cost of transportation via:

- Its own trucks
- Common carrier
- Contract Carrier

Under these shipping terms, the seller retains title and control of goods, and the invoice does not become payable until they are delivered, and the contract of coverage has been completed. Seller selects the carrier and is responsible for the risk of transportation, including the filing for loss and damage. Unless F.O.B. clause states otherwise, seller assumes transportation charges by either payment or allowance. The buyer may not assign, direct or re-consign the shipment.

To this amount is added reimbursement for advancing monetary funds to prepay freight cost for filing loss and damage claims, for expediting urgent shipments, and for other delays in transportation that delay payment for goods.

F.O.B. Point of Origin

The purchaser assumes title the moment the carrier signs the bill of lading. The buyer therefore assumes risk of transportation and is entitled to route the shipment, but also must undertake the responsibility for getting the goods to destination, and for filing claims for loss and damage, regardless of who bears the freight charges. Unless qualified, F.O.B. point of origin term places the responsibility for freight charges on the buyer, but terms may be worded in such a way as to provide for absorption of freight charges or a portion of them through allowance or prepayment.

F.O.B. Freight Allowed

Shipments will move collect and unless qualified, that an amount equivalent to the charges the buyer pays to the carrier will be deducted from the total cost of the goods when paying seller's invoice.

F.O.B. Freight Prepaid

Seller will pay transportation charges to the carrier and that the buyer will remit the full amount of the invoice without deducting freight. In either case, if the seller is unwilling to absorb charges for premium transportation, and clause may be worded to provide this protection.

EXEMPTIONS & EXCEPTIONS TO THE PROCUREMENT PROCESS

Contracts Exempt from Formal Competitive Bid Procedures

Statutory processes and requirements should be followed for the following exemptions:

Purchase of apparatus, supplies, materials and equipment from any federal agency or any other governmental unit within the United States.

Emergency purchases for “cases of special emergency involving the health and safety of the people or their property”. The emergency must be present, immediate, and existing. It may not be a condition this is anticipated and may never actually occur. Reference subsequent section for *Emergency Purchasing Procedures*.

“Pressing Need” situations where unforeseen circumstances may delay or disrupt services to the public.

Group purchasing programs that are formally organized and offer competitively obtained purchasing services to two or more public agencies.

Change orders for construction or repair work undertaken “during the progress” of a project that was initially bid.

Gas, fuel and oil are not subject to formal bidding procedures but are subject to informal bidding procedures.

Sole-source purchases. The sole source exception provides that formal bidding requirements do not apply when: (*See note below)

- Performance or price competition for a product is not available
- A needed product is available from only one source of supply
- Standardization or compatibility is the overriding consideration

Information and technology goods and services may be purchased through contracts awarded by the state Office of Information Technology Services; or may be purchased using a Request for Proposals procedure.

Guaranteed energy savings contracts have separate statutory bidding procedures and are exempted from otherwise applicable bidding requirements.

NC State Contract purchases that are competitively bid and awarded by the North Carolina Division of Purchase and Contract.

Purchase of used apparatus, supplies, materials or equipment. This exception “does not apply to remanufactured, refabricated or demo items”.

Construction Manager at Risk (CMAR) & Design-Build contracts..... RFQ Required

Piggybacking a formal contract that has been competitively bid and awarded by another unit of government within the past twelve months.

Use of own forces.

Lease of goods or equipment when there is no intent to neither buy nor option to purchase at the end of the lease.

Equipment Rental

Procurement by Noncompetitive Proposal (Sole Source):

The noncompetitive proposal method is defined in the City of High Point Purchasing Policies and Procedures as:

- Solicitation of a proposal from only one source; or
- After solicitation of a number of sources, competition is determined to be inadequate; or
- A contract change outside the scope of original contract is also considered a sole source procurement.

Procurement by noncompetitive proposal may be used under the following circumstances:

- Solicitation provides only one bid;
- Performance or price competition for a product are not available;
- Needed product or item is only available from a single source;
- Standardization or compatibility is the overriding consideration;
- Parts/equipment are required from this source to permit standardization;
- Item is an associated capital maintenance item and is purchased directly from original manufacturer:
 - The manufacturer or supplier is the only source for item
 - The price is no higher than usual price paid.

Sole source requires written documentation and justification for the procurement process. At a minimum, the procurement file will contain the Sole Source Justification Form. The City Council designates authority to award sole source procurement for contracts valued less than \$30,000 to the Financial Services Director.

***Sole Source contracts valued at \$30,000 or greater require City Council approval per G.S. 143-129 (e) (6).**

EMERGENCY PURCHASES

Statutory Authority

The laws governing formal bids may be suspended in the case of a qualified emergency. The Purchasing Division may buy from any vendor without going through the formal bid/specification procedure if an emergency is declared. In accordance with G.S. 129 (e)(2), the following provisions must be met to declare an emergency:

- Emergency purchases are specifically for “cases of special emergency involving the health and safety of the people or their property”.
- The emergency must be present, immediate, and existing.
- It may not be a condition that is anticipated and may never actually occur.
- The governing board cannot declare an emergency where none exists to defeat the provision of the law.

City Policy

Emergency purchasing may be defined as an immediate need which would seriously hamper the operations of a department.

The Purchasing Manager must declare the situation an “Emergency” and has discretion to do so based on the circumstances and details provided by the department.

When emergencies arise within a line department, the following procedures are to be followed:

During work hours:

Employee reports problem to the department director or the next responsible officer.

The Department Director or an authorized employee should contact the Purchasing Division by phone or e-mail with the following information:

- Explanation of the emergency
- Location, job, equipment number or other specific description
- Materials or service needed

The department’s Purchasing Requestor will enter a purchase requisition for materials/services needed and notify department director when it is ready to be approved in Lawson Process Flow. Emergency should be described in the Comments to Print on PO as a Trailer: “Emergency Purchase Order per (Employee Name) for repair of (briefly describe project)”

Notify Purchasing Division that requisition has been approved

Purchasing will process the order and distribute it to the vendor and the department

NOTE: If the Purchasing Requestor and/or Department Director is not available for normal Lawson Processing, then the Purchasing Division will direct process the purchase order for the department.

Outside of Normal Work Hours

Employee reports problem to the department director or the next responsible officer.

Department Director or officer authorizes employee to secure the needed materials or services.

On first working day following the emergency the department should:

E-mail the Purchasing Division with an explanation of the emergency, location, job, equipment number or other specific description

Purchasing administrator will enter a purchase requisition for materials/services purchased. Enter in Comments to Print on PO as a Trailer "Confirmation of Emergency Purchase Order per (Employee Name) for repair of (briefly describe project)"

Emergency purchasing is costly! Emergency purchasing due to failure to anticipate needs or from unnecessary delay in submitting a requisition are "Preventable" emergencies and are avoidable. Purchasing will question any emergency order of stock items.

Such an emergency must be subsequently declared by the High Point City Council.

**CONTRACTS
&
SERVICE AGREEMENTS**

CONTRACTS & AGREEMENTS

The City of High Point enters into a variety of contracts each year, including those for the purchase of apparatus, supplies, materials and equipment; services of all types; and construction. Most contracts are let after the receipt of bids and contract award as described in the Bid Submittal Requirements & Award Criteria section. Most service contracts are not subject to North Carolina Bid Laws; however, the City usually elects to follow bid procedures for these type contracts, especially when there is a high interest from the vendor community to supply needed services.

Annual equipment maintenance agreements, multi-year or renewable service agreements, equipment rental or lease agreements, and professional services agreements all require the department to engage and communicate with the Purchasing Division. Temporary services/personnel services require the engagement of the department with the Human Resources Department.

All maintenance agreements, service agreements, and professional service agreements must be processed using the City of High Point Agreement for Services process. The first step thereto is for the department to contact the when the need has first been identified. The Purchasing Division will advise the department as to whether or not the Agreement for Services is appropriate and whether the service can or should be bid.

The department will provide the needed and required information, including the vendor's legal name and address, contact information, the scope of work needed, the schedule for timeliness of performance, and the vendor's qualifying certificate of insurance. **Vendors must meet the following requirements before a contract agreement may be processed:**

- **Must be registered with the North Carolina Secretary of State**
- **Must be registered as a vendor with the City of High Point**

All service contracts, for which a vendor will perform work while on City property, must be accompanied by the City's standard contract form or Agreement for Services. The contract document must follow all signature procedures and contain applicable insurance, license and payment options. The completed and signed contract must be on file with the Purchasing Division prior to the release of a purchase order.

Professional Services

Normal competitive procedures cannot be utilized in securing professional services such as attorneys, planners, and other professional disciplines who, in keeping with the standards of their discipline, will not enter into a competitive bidding process. Most contracts of this type are let through a "Quality Based Selection Process" (QBS) by conducting a RFQ and Negotiation process to include the following:

- Architects, Engineers
- Surveyors & Material Testing
- Design-Build Construction Projects
- Construction Manager At Risk Projects (CMAR)

There are special rules and regulations for acquiring these services and these guidelines are covered in the Policies and Procedures section on page 13 and also in **Appendix D**.

Contract Options

Options may be included in contracts. An option is a unilateral right in a contract by which, for a specified time, the City may elect to purchase additional equipment, supplies, or services called for by the contract, or may elect to extend the term of the contract. If the choice is made to include options, the following requirements apply:

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

Exercise of Options – the City 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. An option may not be exercised unless it is 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.

Process for Approvals

Purchasing will forward the final Agreement for Services, Supplemental Agreements, or Standard Contracts, along with a Notification of Award letter to the vendor, preferably by email. The vendor must return a minimum of four (4) properly executed originals thereof (unless the department/architect or engineer/vendor desires more copies) and include the E-Verify Forms (for Formally Bid contracts) and Certificate of Insurance to the Purchasing Division. Purchasing will route the contracts/agreements for authorizing signatures as below and will distribute completed and authorized documents appropriately upon return.

Authorized Signatures for Contracts

There are only three authorities within City government that are authorized to sign formal contracts committing City funds for any purpose. **The authority is given to:**

- The Mayor of the City of High Point or the City Manager, when they are authorized to do so by the High Point City Council in a public meeting for contracts including construction, services or purchase contracts, excluding legal services, in the amount of \$90,000 or more.
- The City Manager of the City of High Point, as authorized by Resolution of the High Point City Council which formally delegated contractual authority for construction, service or purchase contracts in amounts less than \$90,000. The Deputy or Assistant City Manager may sign in the City Manager's absence or per his delegation.
- The Financial Services Director and Purchasing Manager are authorized to sign purchase orders when a formal contract is not required. (or any authorized individual)

Legal Approval of Contracts

The City Attorney's Office must review and sign off on the legal form and sufficiency of a contract before the contract is valid.

The Local Government Budget and Fiscal Control Act requires the Financial Services Director or authorized Deputy Finance Officer to sign all contracts calling for the expenditure of City funds; certifying that sufficient funds are available (the preaudit certificate) and encumbered to cover the contract as required by G.S. 159-28.

The City Clerk will attest the signature and attach the City Seal on contracts signed by the Mayor and/or City Manager, Deputy City Manager or Assistant Managers as necessary.

Contracts are distributed to:

Purchasing Division
City Clerk
Department
Vendor

Contracts or agreements will not be submitted for approval and execution without a signed recommendation or an email request from the Department Director that such contract or agreement fully covers the materials or services required. Recommendation forms are available on the Purchasing Intranet site.

PROTEST AND DISPUTE RESOLUTION PROCEDURES

DISPUTE RESOLUTION AND RULES IMPLEMENTING MEDIATED SETTLEMENT CONFERENCES IN THE CITY OF HIGH POINT CONSTRUCTION PROJECTS

Table of Rules

Rule

1. Initiating Mediated Settlement Conferences

- A. Purpose of Mandatory Settlement Conferences
- B. Initiating the Dispute Resolution Process

2. Selection of Mediator

- A. Mediator Listing
- B. Selection of Mediator
- C. Disqualification of Mediator

3. The Mediated Settlement Conference

- A. Where Conference is to be Held
- B. When Conference is to be Held
- C. Request to Modify Deadline for Completion
- D. Recesses
- E. Project Delay

4. Duties of Parties and Other Participants in Formal Dispute Resolution Process

- A. Attendance
- B. Finalizing Agreement
- C. Payment of Mediation Fee
- D. Failure to Compensate Mediator

5. Authority and Duties of Mediators

- A. Authority of Mediator
- B. Duties of Mediator

6 Compensation of the Mediator

7. Rule Making

8. Definitions

9. Time Limits

RULE 1 - INITIATING MEDIATED SETTLEMENT CONFERENCES

A. Purpose of Mandatory Settlement Conferences

These Rules are promulgated to implement a mediated settlement program designed to focus the parties' attention on settlement rather than on claim preparation and to provide an opportunity for orderly settlement negotiations to take place. Nothing herein is intended to limit or prevent the parties from engaging in settlement procedures voluntarily at any time prior to or during commencement of the dispute resolution process.

B. Initiating the Dispute Resolution Process

1) Any party to a City of High Point ("City") public construction contract (referred to herein generally as the "Contract") governed by Article 8. Ch. 143 of the General Statutes and identified in G.S. § 143-128(f1) and who is a party to a dispute arising out of the Contract and the construction process in which the amount in controversy is at least \$15,000 may submit a written request to the City for mediation of the dispute.

2) Prior to submission of a written request for mediation to the City, the parties should give notice of any and all claims in accordance with their respective contracts, obtain decisions on the claims as required or allowed by their respective contracts, and attempt to resolve the dispute according to the terms and conditions in their respective contracts. The Mediator may adjourn any mediated settlement conference if the Mediator believes, in his or her sole discretion, that the parties have not satisfied all of the terms and conditions of their respective contracts and that doing so will enhance the prospects for a negotiated settlement.

C. Condition Precedent to Litigation

Before any party to a Contract may commence a civil action against the City seeking remedies for breach or non-performance of the Contract by the City, said party must first initiate the dispute resolution process under these rules and attend the mediated settlement conference.

RULE 2 - SELECTION OF MEDIATOR

A. Mediator Listing

A list of Mediators acceptable to the City is attached to and incorporated by reference into these Rules. The party requesting mediation shall select a Mediator from the designated list. If the City fails to provide a list of acceptable mediators, the list of Mediators shall be deemed to be the list of mediators certified by the North Carolina Dispute Resolution Commission to conduct mediated settlement conferences in the North Carolina Superior Courts.

B. Selection of a Mediator

The party requesting mediation shall select a Mediator from the City's list of Mediators and shall file, with the City, a Notice of Selection of Mediator within 21 days of the request for mediation. Such notice shall state the name, address, and phone number of the Mediator selected. If the Mediator selected is not available or declines to participate for any reason, the requesting party

shall select another person from the City's list of Mediators. If the party requesting mediation does not select and designate a mediator within 21 days of the request for mediation, the City shall have the right in its absolute discretion to appoint a mediator from its list of Mediators.

C. Disqualification of Mediator

Any party may request replacement of the Mediator for good cause. Nothing in this provision shall preclude Mediators from disqualifying themselves.

RULE 3 - THE MEDIATED SETTLEMENT CONFERENCE

A. Where Conference is to be Held

Unless all parties and the Mediator otherwise agree, the mediated settlement conference shall be held in Guilford County. The Mediator shall be responsible for reserving a place, making arrangements for the conference, and giving timely notice of the time and location of the conference to all attorneys, unrepresented parties and other persons or entities required to attend.

B. When Conference is to be Held

The mediation shall be completed within 90 days after selection of the Mediator.

C. Request to Accelerate or Extend Deadline for Completion

Any party or the Mediator may request the City to accelerate or extend the deadline for completion of the conference. Such request shall state the reasons the extension is sought and shall be served by the moving party upon the other parties and the Mediator. Objections to the request must be promptly communicated to the City and to the Mediator.

The City, with the concurrence of the designated Mediator, may grant the request by adjusting the time for completion of the conference.

D. Recesses

The Mediator may recess the mediation conference at any time and may set times for reconvening. If the Mediator determines the time and place where the conference is to reconvene before the conference is recessed, no further notice is required to persons present at the conference.

E. Project Delay

The mediated settlement conference that results from a construction contract dispute shall not be cause for the delay of the construction project.

RULE 4 - DUTIES OF PARTIES AND OTHER PARTICIPANTS IN FORMAL DISPUTE RESOLUTION PROCESS

A. Attendance

1. All parties to the dispute must designate an official representative to attend the mediation.
2. "Attendance" means physical attendance, not by telephone or other electronic means. Any attendee representing a party must have authority from that party to bind it to any agreement reached as a result of the mediation.
3. Attorneys representing parties may attend the mediation but are not required to do so.
4. Sureties and insurance company representatives are required to physically attend the mediation unless the Mediator and all of the other parties to the mediation excuse their attendance or consent to their attendance by telephone or other electronic means.
5. The parties who attend a duly scheduled mediation conference shall have the right to recover their share of the Mediator's compensation from any party or parties who fail to attend the conference without good cause.

B. Finalizing Agreement

If an agreement is reached in the mediation conference, the terms of the agreement shall be confirmed in writing and signed by all parties.

C. Mediation Fees

Fees charged by the Mediator shall be paid in accordance with G.S. § 143-128(f1).

D. Failure to compensate Mediator

Any party's failure to compensate the Mediators in accordance with G.S. § 143-128(f1) shall subject that party to a withholding of said amount of money from the party's monthly payment by the City.

Should the City fail to compensate the Mediator, it shall hereby be subject to a civil cause of action from the Mediator for the 1/3 portion of the Mediator's total fee as required by G.S. § 143-128(f1).

RULE 5 - AUTHORITY AND DUTIES OF MEDIATORS

A. Authority of Mediator

1. Control of Conference. The Mediator shall at all times be in control of the conference and the procedures to be followed.

5. Private Consultation. The Mediator may communicate privately with any participant or counsel prior to and during the conference. The fact that private communications have occurred with a participant shall be disclosed to all other participants at the beginning of the conference.
6. Scheduling the Conference. The Mediator shall make a good faith effort to schedule the conference at a time that is convenient with the participants, attorneys and Mediator. In the absence of agreement, the Mediator shall select the date for the conference.
4. Determining good cause for a party's failure to appear at a scheduled mediation conference.

B. Duties of Mediator

1. The Mediator shall define and describe the following at the beginning of the conference:
 - a. The process of mediation.
 - b. The difference between mediation and other forms of conflict resolution.
 - c. The costs of the mediated settlement conference.
 - d. That the mediated settlement conference is not a trial, the Mediator is not a judge, and the parties retain their legal rights if they do not reach settlement; however, the Mediator will advise all parties that failure to appear at mediation without good cause may result in imposition of sanctions and may be asserted as a bar to lawsuits by claimants who have failed to exhaust this administrative remedy.
 - e. The circumstances under which the Mediator may meet and communicate privately with any of the parties or with any other person.
 - f. Whether and under what conditions communications with the Mediator will be held in confidence during the conference.
 - g. The inadmissibility of conduct and statements as provided by G.S. §7A-38.1(1).
 - h. The duties and responsibilities of the Mediator and the participants.
 - i. That any agreement reached will be reached by mutual consent.
2. Disclosure: The Mediator has a duty to be impartial and to advise all participants of any possible bias, prejudice or partiality.
3. Declaring Impasse: The Mediator may determine at any time during the mediation conference that an impasse exists and that the conference should end.
4. Reporting Results of Conference. The Mediator shall submit a written report to the City and the other parties within 10 days of the conference stating whether or not the parties reached an agreement. The Mediator's report shall indicate the absence of any party from the mediated settlement conference without permission or good cause.
5. Scheduling and Holding the Conference. It is the duty of the Mediator to schedule the conference and conduct it prior to the deadline of completion set by the rules. The Mediator shall strictly observe deadlines for completion of the conference unless said time limit is changed by agreement of the parties.

RULE 6 - COMPENSATION OF THE MEDIATOR

- A.** The parties shall compensate the Mediator for mediation services at the rate proposed by the Mediator and agreed to by the parties at the time the Mediator is selected.

RULE 7 - RULE MAKING

- A.** These Rules may be amended by the City at any time. Amendments will not affect mediations where claims and/or requests for mediation have been filed at the time the amendment takes effect

RULE 8 - DEFINITIONS

- A.** “City” shall mean the City of High Point, North Carolina
- B.** “Project Designer” is that person or firm stipulated as project designer in the Contract Documents for the project.
- C.** “Claim” is a demand or assertion by a party seeking adjustment or interpretation of Contract terms, payment of money, extension of time or other relief with respect to the terms of the Contract. The term “Claim” also includes other disputes and matters in question between the parties to a Contract involved in the City’s building construction renovation and repair projects arising out of or relating to the Contract or the construction process. Claims must be initiated by a written notice. The responsibility to substantiate Claims shall rest with the party making the Claim.
- D.** “Good Cause” generally includes any circumstance beyond the control of a party, which prevents that party from meeting obligations. When good cause is asserted as an excuse for a party’s failure to appear at a mediation conference or to otherwise comply with the requirements of these Rules, the Mediator, in his or her sole discretion, will determine whether good cause exists to excuse the party’s failure to appear or otherwise comply with these rules.

RULE 9 - TIME LIMITS

- A.** Any time limit provided for by these Rules may be waived or extended at the sole discretion of the City, if no Mediator has been selected, and at the discretion of the City with concurrence of the Mediator if a Mediator has been selected.

FIXED ASSET CONTROL
AND
SURPLUS PROPERTY

Fixed Asset Control

Fixed Assets

The City of High Point operates a Fixed Asset control system to keep track of fixed asset purchases and disposals.

A purchase requisition is the starting point for the entire asset control process, and as such requisitions must provide accurate and complete descriptions of the items to be purchased. The descriptions provided on requisitions are used for entry to the Fixed Asset System; therefore they must be complete in order for the property control system records to be of value.

The department is responsible for notifying the Fixed Asset Accountant when items are received.

The department is responsible for notifying the Fixed Asset Accountant and the Purchasing Division with the asset number, descriptions, etc. of any equipment being disposed of.

Capital assets of the City must meet the following qualifications:

- An estimated useful life of three (3) years or more
- An initial cost of \$5,000 or more (for all assets excluding infrastructure and land)
- Land or right of way (always capitalized, no matter the cost)
- Infrastructure (cost of \$10,000 or more)
- Donated capital assets that meet the above qualifications (the value of a donated asset is the fair market value at the time of donation)

Other guidelines to be aware of:

- Easements are not capitalized. All easements should be coded to 529215.
- The cost of an asset includes all costs incurred to get the asset into working condition (i.e., shipping, installation, etc.).
- Software is generally not capitalized (even if \$5k or more). Most software is relatively inexpensive and does not have an extensive useful life. If you are unsure if software you are purchasing should be capitalized, please contact Fixed Asset Accountant for a determination.
- The costs of normal maintenance and repairs that do not materially add to the value or useful life of the original asset are not capitalized (i.e., new roof, painting, new carpet, etc.).
- Notify the Fixed Asset Accountant when a donation is received that meets the qualifications of a capital asset.

- Notify the Fixed Asset Accountant when a capital asset is taken out of service or disposed of.
- Capital asset expenditures should be coded to the accounts beginning with 53.
- Operational expenditures should be coded to the accounts beginning with 52.

Requisitions for Capital Assets: RQ10 Requisition Entry Screen

Requisitions for Capital Assets are those for items costing \$5,000 or more and entered to a 53 account number. It is required that an asset template be chosen for these items.

The screenshot displays the Lawson Portal Requisition (RQ10.1) entry screen. The interface includes a header section with fields for Requester, Requisition Number, and Total. Below the header is a table with columns for Line, Item, Quantity, DOH, Unit Cost, and Curr. The 'Line Detail' section is expanded, showing fields for Item Description, Vendor Item, Account, Activity, Asset Template, Requested Delivery Date, Item Type, Cost Opt, Service Code, Dist Co, Bill Cat, Item Entry Code, Priority, and Create PO. Two arrows point to the 'Asset Template' field, indicating where to enter the asset template.

Enter Asset Template here. Click on drop down arrow to see available templates. Choose item from list that most appropriately describes the asset to be purchased.

Surplus Property Control

The sale of all personal property belonging to the City shall be made by the Financial Services Director or his/her designee under the direction of the City Manager where the value of the property is less than the amount established by North Carolina General Statute Section 160A-266 as amended from time to time and pursuant to law under the direction of the City Council where the value of the personal property exceeds that amount. The Financial Services Director or his/her designee shall have the authority to declare such property surplus, set its fair market value, and convey title.

The City is authorized to utilize electronic advertisement in providing public notice of city surplus personal property sales under authority of North Carolina General Statute Section 160A-270 as amended from time to time.

The disposal of surplus personal property shall be conducted in accordance with North Carolina General Statute Section 160A-270 as amended from time to time. The Purchasing Manager is assigned the responsibility for the disposal of surplus property.

Surplus property disposition has been delegated as follows:

- Financial Services Director/Purchasing Manager \$29,999 or less
- City Council Approval Required \$30,000 or more

Sale of Personal Property

The Financial Services Director has authorized the Purchasing Manager to sell via electronic auction or other means all surplus property where the value of the property is less than the amount established by North Carolina General Statute Section 160A-266 as amended from time to time. Most surplus property is now sold by Electronic Auction.

- Department reports to the Purchasing Division that it has surplus property available for sale
- If the City Warehouse will be conducting the surplus disposal, the Department may deliver surplus property to the City Warehouse for auction
- Purchasing will send information to the Fleet Services Director who will sell the property following the procedures outlined in the Sale of Surplus Fleet Vehicles section

Sale of Surplus Fleet Vehicles

The Financial Services Director has authorized the Fleet Services Director to sell via electronic auction all surplus fleet automobiles, heavy equipment and other rolling stock where the value of the property is less than the amount established by North Carolina General Statute Section 160A-266 as amended from time to time.

- Property is listed for sale on a publicly available electronic auctioning site
- Public places bid on the property for an established length of time (no less than ten days)
- Property is sold to the highest bidder
- Bidder is invoiced by and pays the electronic auctioning site
- Electronic auctioning site notifies the Fleet Services Director that property has been paid for
- Electronic auctioning site pays the city for sold property
- Bidder brings receipt and picks up property

Reporting

Reports of real and personal property sold under the above procedures shall be submitted to City Council on an annual basis.

Sale of Real Property owned by the City

The sale of real property owned by the city shall be made by the Right of Way Agent or Financial Services Director or his/her designee as directed by the City Council, subject to the approval of the City Manager.

Sale of Surplus Property greater than amount authorized by GS160A-266

All sales greater than the amount established by GS160A-266 must be authorized by City Council

- A report of the property to be disposed of shall be taken to City Council
- City Council shall declare the property to be surplus and authorize its sell
- The Purchasing Manager shall dispose of the property in accordance with rules established by North Carolina General Statute Section 160A-270 as amended from time to time
- A report of the outcome of the disposition shall be submitted to City Council

**FEDERAL UNIFORM GUIDANCE
PROCUREMENT POLICY &
REQUIREMENTS**

Uniform Guidance Procurement Policy

For North Carolina Local Governments

I. Purpose

The purpose of this policy is to establish guidelines that meet or exceed the procurement requirements for purchases of goods (apparatus, supplies, materials, and equipment), services, and construction or repair projects when federal funds are being used in whole or in part to pay for the cost of the contract. To the extent that other sections of procurement policies and procedures adopted by the City of High Point are more restrictive than those contained in this policy, local policies and procedures shall be followed.

II. Policy

- A. **Application of Policy.** This policy applies to contracts for purchases, services, and construction or repair work funded with federal financial assistance (direct or reimbursed). The requirements of this Policy also apply to any subrecipient of the funds.

All federally funded projects, loans, grants, and sub-grants, whether funded in part or wholly, are subject to the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for federal awards (Uniform Guidance) codified at 2 C.F.R. Part 200 unless otherwise directed in writing by the federal agency or state pass-through agency that awarded the funds.

- B. **Compliance with Federal Law.** All procurement activities involving the expenditure of federal funds must be conducted in compliance with the Procurement Standards codified in 2 C.F.R. § 200.317 through § 200.326 unless otherwise directed in writing by the federal agency or state pass-through agency that awarded the funds. The City of High Point will follow all applicable local, state, and federal procurement requirements when expending federal funds. Should the City of High Point have more stringent requirements, the most restrictive requirement shall apply so long as it is consistent with state and federal law.
- C. **Contract Award.** All contracts shall be awarded only to the lowest responsive responsible bidder possessing the ability to perform successfully under the terms and conditions of the contract.
- D. **No Evasion.** No contract may be divided to bring the cost under bid thresholds or to evade any requirements under this Policy or state and federal law.
- E. **Contract Requirements.** All contracts paid for in whole or in part with federal funds shall be in writing. The written contract must include or incorporate by reference the provisions required under 2 C.F.R § 200.326 and as provided for under 2 C.F.R. Part 200, Appendix II.
- F. **Contractors' Conflict of Interest.** Designers, suppliers, and contractors that assist in the development or drafting of specifications, requirements, statements of work, invitation for bids or requests for proposals shall be excluded from competing for such requirements.

- G. **Approval and Modification.** The administrative procedures contained in this Policy are administrative and may be changed as necessary at the staff level to comply with state and federal law.

III. General Procurement Standards and Procedures:

Either the Purchasing Department or the Requesting Department shall procure all contracts in accordance with the requirements of this Section of the Policy.

- A. **Necessity.** Purchases must be necessary to perform the scope of work and must avoid acquisition of unnecessary or duplicative items. The Purchasing Department and/or the Requesting Department should check with the federal surplus property agency prior to buying new items when feasible and less expensive. Strategic sourcing should be considered with other departments and/or agencies who have similar needs to consolidate procurements and services to obtain better pricing.
- B. **Clear Specifications.** All solicitations must incorporate a clear and accurate description of the technical requirements for the materials, products, or services to be procured, and shall include all other requirements which bidders must fulfill and all other factors to be used in evaluating bids or proposals. Technical requirements must not contain features that restrict competition.
- C. **Notice of Federal Funding.** All bid solicitations must acknowledge the use of federal funding for the contract. In addition, all prospective bidders or offerors must acknowledge that funding is contingent upon compliance with all terms and conditions of the funding award.
- D. **Compliance by Contractors.** All solicitations shall inform prospective contractors that they must comply with all applicable federal laws, regulations, executive orders, and terms and conditions of the funding award.
- E. **Fixed Price.** Solicitations must state that bidders shall submit bids on a fixed price basis and that the contract shall be awarded on this basis unless otherwise provided for in this Policy. Cost plus percentage of cost contracts are prohibited. Time and materials contracts are prohibited in most circumstances. Time and materials contracts will not be used unless no other form of contract is suitable and the contract includes a "Not to Exceed" amount. A time and materials contract shall not be awarded without express written permission of the federal agency or state pass-through agency that awarded the funds.
- F. **Use of Brand Names.** When possible, performance or functional specifications are preferred to allow for more competition leaving the determination of how to reach the required result to the contractor. Brand names may be used only when it is impractical or uneconomical to write a clear and accurate description of the requirement(s). When a brand name is listed, it is used as reference only and "or equal" must be included in the description.
- G. **Lease versus Purchase.** Under certain circumstances, it may be necessary to perform an analysis of lease versus purchase alternatives to determine the most economical approach.

- H. **Dividing Contract for MWBE Participation.** If economically feasible, procurements may be divided into smaller components to allow maximum participation of small and minority businesses and women business enterprises. The procurement cannot be divided to bring the cost under bid thresholds or to evade any requirements under this Policy.
- I. **Documentation.** Documentation must be maintained by the Purchasing Department and/or the Requesting Department detailing the history of all procurements. The documentation should include the procurement method used, contract type, basis for contractor selection, price, sources solicited, public notices, cost analysis, bid documents, addenda, amendments, contractor's responsiveness, notice of award, copies of notices to unsuccessful bidders or offerors, record of protests or disputes, bond documents, notice to proceed, purchase order, and contract. All documentation relating to the award of any contract must be made available to the granting agency upon request.
- J. **Cost Estimate.** For all procurements costing \$250,000 or more, the Purchasing Department and/or Requesting Department shall develop an estimate of the cost of the procurement prior to soliciting bids. Cost estimates may be developed by reviewing prior contract costs, online review of similar products or services, or other means by which a good faith cost estimate may be obtained. Cost estimates for construction and repair contracts may be developed by the project designer.
- K. **Contract Requirements.** The Requesting Department must prepare a written contract incorporating the provisions referenced in Section II.C of this Policy.
- L. **Debarment.** No contract shall be awarded to a contractor included on the federally debarred bidder's list.
- M. **Contractor Oversight.** The Requesting Department receiving the federal funding must maintain oversight of the contract to ensure that contractor is performing in accordance with the contract terms, conditions, and specifications.
- N. **Open Competition.** Solicitations shall be prepared in a way to be fair and provide open competition. The procurement process shall not restrict competition by imposing unreasonable requirements on bidders, including but not limited to unnecessary supplier experience, excessive or unnecessary bonding, specifying a brand name without allowing for "or equal" products, or other unnecessary requirements that have the effect of restricting competition.
- O. **Geographic Preference.** No contract shall be awarded on the basis of a geographic preference.

IV. **Specific Procurement Procedures**

Either the Purchasing Department or the Requesting Department shall solicit bids in accordance with the requirements under this Section of the Policy based on the type and cost of the contract.

- A. **Service Contracts** (except for A/E professional services) and **Purchase Contracts costing less than \$10,000** shall be procured using the Uniform Guidance “micro-purchase” procedure (2 C.F.R. § 200.320(a)) as follows:
1. The contract may be awarded without soliciting pricing or bids if the price of the goods or services is considered to be fair and reasonable.
 2. To the extent practicable, purchases must be distributed among qualified suppliers.
- B. **Service Contracts** (except for A/E professional services) and **Purchase Contracts costing \$10,000 up to \$90,000** shall be procured using the Uniform Guidance “small purchase” procedure (2 C.F.R. § 200.320(b)) as follows:
1. Obtain price or rate quotes from an “adequate number” of qualified sources (a federal grantor agency might issue guidance interpreting “adequate number,” so the Requesting Department should review the terms and conditions of the grant award documents to confirm whether specific guidance has been issued).
 2. Take affirmative steps to solicit price quotes from MWBE vendors and suppliers as required under 2 C.F.R. § 200.321.
 3. Cost or price analysis is not required prior to soliciting bids.
 4. Award the contract on a fixed-price basis (a not-to-exceed basis is permissible for service contracts where obtaining a fixed price is not feasible).
 5. Award the contract to the lowest responsive, responsible bidder.
- C. **Service Contracts** (except for A/E professional services) and **Purchase Contracts costing \$90,000 and above** shall be procured using a combination of the most restrictive requirements of the Uniform Guidance “sealed bid” procedure (2 C.F.R. § 200.320(c)) and state formal bidding procedures (G.S. 143-129) as follows:
1. Cost or price analysis is required prior to soliciting bids.
 2. Complete specifications or purchase description must be made available to all bidders.
 3. The bid must be formally advertised in a newspaper of general circulation for at least seven full days between the date of the advertisement and the date of the public bid opening. Electronic-only advertising must be authorized by the governing board. The advertisement must state the date, time, and location of the public bid opening, indicate where specifications may be obtained, and reserve to the governing board the right to reject any or all bids only for “sound documented reasons.”
 4. Take affirmative steps to solicit price quotes from MWBE vendors and suppliers as required under 2 C.F.R. § 200.321.
 5. Open bids at the public bid opening on the date, time, and at the location noticed in the public advertisement. All bids must be submitted sealed. A minimum of 2 bids must be received in order to open all bids.
 6. Award the contract to the lowest responsive, responsible bidder on a fixed-price basis. Governing board approval is required for purchase contracts unless the governing board has delegated award authority to an individual official or employee. Any and all bids may be rejected only for “sound documented reasons.”

Note Regarding Service Contracts Costing \$90,000 up to \$250,000: Local government service contracts are not subject to state competitive bidding requirements. If a local government does not require competitive proposals (RFPs) for service contracts under its local policy, it may choose to follow the UG small purchase procedure for service contracts costing \$10,000 up to \$250,000, and then follow the UG sealed bid or competitive proposal method for service contracts costing \$250,000 or more. If the local policy regarding service contracts is more restrictive, the local policy should be followed.

D. **Service Contracts** (except for A/E professional services) **costing \$250,000 and above** may be procured using the Uniform Guidance “competitive proposal” procedure (2 C.F.R. § 200.320(d)) when the “sealed bid” procedure is not appropriate for the particular type of service being sought. The procedures are as follows:

1. A Request for Proposals (RFP) must be publicly advertised. Formal advertisement in a newspaper is not required so long as the method of advertisement will solicit proposals from an “adequate number” of qualified firms.
2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided under 2 C.F.R. § 200.321.
3. Identify evaluation criteria and relative importance of each criteria (criteria weight) in the RFP.
4. Consider all responses to the publicized RFP to the maximum extent practical.
5. Must have a written method for conducting technical evaluations of proposals and selecting the winning firm.
6. Award the contract to the responsible firm with most advantageous proposal taking into account price and other factors identified in the RFP. Governing board approval is not required.
7. Award the contract on a fixed-price or cost-reimbursement basis.

DI. **Construction and repair contracts costing less than \$10,000** shall be procured using the Uniform Guidance “micro-purchase” procedure (2 C.F.R. § 200.320(a)) as follows:

1. The contract may be awarded without soliciting pricing or bids if the price of the goods or services is considered to be fair and reasonable.
2. To the extent practicable, contracts must be distributed among qualified suppliers.

DII. **Construction and repair contracts costing \$10,000 up to \$250,000** shall be procured using the Uniform Guidance “small purchase” procedure (2 C.F.R. § 200.320(b)) as follows:

1. Obtain price or rate quotes from an “adequate number” of qualified sources (a federal grantor agency might issue guidance interpreting “adequate number,” so the requesting department should review the terms and conditions of the grant award documents to confirm whether specific guidance has been issued).
2. Take affirmative steps to solicit price quotes from MWBE vendors and suppliers as required under 2 C.F.R. § 200.321.
3. Cost or price analysis is not required prior to soliciting bids, although price estimates may be provided by the project designer.
4. Award the contract on a fixed-price or not-to-exceed basis.

5. Award the contract to the lowest responsive, responsible bidder. Governing board approval is not required.

G. **Construction and repair contracts costing \$250,000 up to \$500,000** shall be procured using the Uniform Guidance “sealed bid” procedure (2 C.F.R. § 200.320(c)) as follows:

1. Cost or price analysis is required prior to soliciting bids (this cost estimate may be provided by the project designer).
2. Complete specifications must be made available to all bidders.
3. Publicly advertise the bid solicitation for a period of time sufficient to give bidders notice of opportunity to submit bids (formal advertisement in a newspaper is not required so long as other means of advertising will provide sufficient notice of the opportunity to bid). The advertisement must state the date, time, and location of the public bid opening, and indicate where specifications may be obtained.
4. Take affirmative steps to solicit price quotes from MWBE vendors and suppliers as provided under 2 C.F.R. § 200.321.
5. Open the bids at the public bid opening on the date, time, and at the location noticed in the public advertisement. All bids must be submitted sealed. A minimum of 2 bids must be received in order to open all bids.
6. A 5% bid bond is required of all bidders. Performance and payment bonds of 100% of the contract price is required of the winning bidder.
7. Award the contract on a firm fixed-price basis.
8. Award the contract to the lowest responsive, responsible bidder. Governing board approval is not required. Any and all bids may be rejected only for “sound documented reasons.”

H. **Construction and repair contracts costing \$500,000 and above** shall be procured using a combination of the most restrictive requirements of the Uniform Guidance “sealed bid” procedure (2 C.F.R. § 200.320(c)) and state formal bidding procedures (G.S. 143-129) as follows:

1. Cost or price analysis is required prior to soliciting bids (this cost estimate should be provided by the project designer).
2. Complete specifications must be made available to all bidders.
3. Formally advertise the bid in a newspaper of general circulation for at least seven full days between the date of the advertisement and the date of the public bid opening. Electronic-only advertising must be authorized by the governing board. The advertisement must state the date, time, and location of the public bid opening, indicate where specifications may be obtained, and reserve to the governing board the right to reject any or all bids only for “sound documented reasons.”
4. Take affirmative steps to solicit price quotes from MWBE vendors and suppliers as provided under 2 C.F.R. § 200.321.
5. Open the bids at the public bid opening on the date, time, and at the location noticed in the public advertisement. All bids must be submitted sealed and in paper form. A minimum of 3 bids must be received in order to open all bids.
6. A 5% bid bond is required of all bidders (a bid that does not include a bid bond cannot be counted toward the 3-bid minimum requirement). Performance and payment bonds of 100% of the contract price is required of the winning bidder.
7. Award the contract on a firm fixed-price basis.

8. Award the contract to the lowest responsive, responsible bidder. Governing board approval is required and cannot be delegated. The governing board may reject and all bids only for “sound documented reasons.”
- I. **Construction or repair contracts involving a building costing \$300,000 and above** must comply with the following additional requirements under state law:
 1. Formal HUB (historically underutilized business) participation required under G.S. 143-128.2, including local government outreach efforts and bidder good faith efforts, shall apply.
 2. Separate specifications shall be drawn for the HVAC, electrical, plumbing, and general construction work as required under G.S. 143-128(a).
 3. The project shall be bid using a statutorily authorized bidding method (separate-prime, single-prime, or dual bidding) as required under G.S. 143-129(a1).
- II. **Contracts for Architectural and Engineering Services costing under \$250,000** shall be procured using the state “Mini-Brooks Act” requirements (G.S. 143-64.31) as follows:
 1. Issue a Request for Qualifications (RFQ) to solicit qualifications from qualified firms (formal advertisement in a newspaper is not required). Price (other than unit cost) shall not be solicited in the RFQ.
 2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided for under 2 C.F.R. § 200.321.
 3. Evaluate the qualifications of respondents based on the evaluation criteria developed by the Purchasing Department and/or Requesting Department.
 4. Rank respondents based on qualifications and select the best qualified firm. Price cannot be a factor in the evaluation. Preference may be given to in-state (but not local) firms.
 5. Negotiate fair and reasonable compensation with the best qualified firm. If negotiations are not successfully, repeat negotiations with the second-best qualified firm.
 6. Award the contract to best qualified firm with whom fair and reasonable compensation has been successfully negotiated. Governing board approval is not required.
- III. **Contracts for Architectural and Engineering Services costing \$250,000 or more** shall be procured using the Uniform Guidance “competitive proposal” procedure (2 C.F.R. § 200.320(d)(5)) as follows:
 1. Publicly advertise a Request for Qualifications (RFQ) to solicit qualifications from qualified firms (formal advertisement in a newspaper is not required). Price (other than unit cost) shall not be solicited in the RFQ.
 2. Take affirmative steps to solicit price quotes from MWBE vendors and suppliers as provided under 2 C.F.R. § 200.321.
 3. Identify the evaluation criteria and relative importance of each criteria (the criteria weight) in the RFQ.
 4. Proposals must be solicited from an “adequate number of qualified sources” (an individual federal grantor agency may issue guidance interpreting “adequate number”).
 5. Must have a written method for conducting technical evaluations of proposals and selecting the best qualified firm.
 6. Consider all responses to the publicized RFQ to the maximum extent practical.

7. Evaluate qualifications of respondents to rank respondents and select the most qualified firm. Preference may be given to in-state (but not local) firms provided that granting the preference leaves an appropriate number of qualified firms to compete for the contract given the nature and size of the project.
8. Price cannot be a factor in the initial selection of the most qualified firm.
9. Once the most qualified firm is selected, negotiate fair and reasonable compensation. If negotiations are not successfully, repeat negotiations with the second-best qualified firm.
10. Award the contract to best qualified firm with whom fair and reasonable compensation has been successfully negotiated. Governing board approval is not required.

V. Exceptions

Non-competitive contracts are allowed **only** under the following conditions and with the written approval of the federal agency or state pass-through agency that awarded the federal funds:

- A. **Sole Source.** A contract may be awarded without competitive bidding when the item is available from only one source. The Purchasing Department and/or Requesting Department shall document the justification for and lack of available competition for the item. A sole source contract must be approved by the governing board.
- B. **Public Exigency.** A contract may be awarded without competitive bidding when there is a public exigency. A public exigency exists when there is an imminent or actual threat to public health, safety, and welfare, and the need for the item will not permit the delay resulting from a competitive bidding.
- C. **Inadequate Competition.** A contract may be awarded without competitive bidding when competition is determined to be inadequate after attempts to solicit bids from a number of sources as required under this Policy does not result in a qualified winning bidder.
- D. **Federal Contract.** A contract may be awarded without competitive bidding when the purchase is made from a federal contract available on the U.S. General Services Administration schedules of contracts.
- E. **Awarding Agency Approval.** A contract may be awarded without competitive bidding with the express written authorization of the federal agency or state pass-through agency that awarded the federal funds so long as awarding the contract without competition is consistent with state law.

UNIFORM GUIDANCE PROCUREMENT GUIDELINES STEP BY STEP

Purchase and Service Contracts (\$10,000-\$90,000)

- Price analysis before bidding
- Quotes from “adequate number” of bidders
 - W-9
 - COI
 - City of High Point listed as certificate holder
 - Workers Compensation
 - Policy dates must cover dates of contract
- MWBE Solicitation
- Award on fixed-price or not-to exceed basis
- Contract in writing with UG Provisions
 - All contracts over \$10,000 must be in writing
- Award to lowest, responsible, responsive, bidder
- Request purchase order once you have a signed contract
- Document Procedures that you followed

Purchase and Service Contracts (\$90,000 and above)- UG Sealed Bid

Purchase

- Price analysis before bidding
- Specs available to bidder
- W-9
- Formal advertising (**purchase**)
 - Formal Solicitation/Advertisement is required. Must be listed in the newspaper/electronic for at least seven days before bid opening.
 - MWBE- at least seven days before bid opening
- Sealed bids
 - Two (2) bid minimum is required- If two bids are not received, the City of High Point must re-advertise for an additional seven days (after the second bid opening, we can go with one bid if only one received).
- Public bid opening
 - A formal contract must list the date, place, and time of bid opening.
 - A public bid opening is required at the date, place, and time listed. The date, time, and/or location cannot be changed once the advertisement is posted.
- Award to lowest, responsible, responsive, bidder
- Contract in writing with UG provisions
 - Contractor must initial
- Request purchase order once you have a signed contract
- Document Procedures that you followed

Service

- Price analysis before bidding
- Specs available to bidder
- W-9
- COI
 - City of High Point listed as certificate holder
 - Workers Compensation
 - Policy dates must cover dates of contract
- Advertising
 - Under state law, service contracts are not subject to the 7-day minimum advertising period. UG does not specify any minimum number of days for advertising, but for the sealed bid method, instead simply states that the bid must be advertised for a “sufficient” response time period to the date set for opening of bids”.
 - School of Government advises that 5-7 days should be a “sufficient” number of days based on FEMA.
 - M/WBE- at least five to seven days before bid opening
- Sealed bids
 - Two (2) bid minimum is required- If two bids are not received, the City of High Point must re-advertise for an additional seven days (after the second bid opening, we can go with one bid if only one received).
- Award to lowest, responsible, responsive, bidder
- Contract in writing with UG provisions
 - Contractor must initial
- Request purchase order once you have a signed contract
- Document Procedures that you followed

Construction and Repair Contracts (\$10,000-\$250,000)

- Price analysis before bidding
- Quotes from “adequate number” of bidders
 - W-9
 - COI
 - City of High Point listed as certificate holder
 - Workers Compensation
 - Policy dates must cover dates of contract
- MWBE solicitation
- Award on fixed-price or not-to exceed basis
- Contract in writing with UG Provisions
 - All contracts over \$10,000 must be in writing
- Award to lowest, responsible, responsive, bidder

- Request purchase order once you have a signed contract
- Document Procedures that you followed

Construction and Repair Contracts (\$250,000-\$500,000)

- Price analysis before bidding
- Specs available to bidders
- W-9
- COI
 - City of High Point listed as certificate holder
 - Workers Compensation
 - Policy dates must cover dates of contract
- Public advertising
 - MWBE- at least seven days before bid opening
- Sealed Bids
 - Two (2) bid minimum is required- If two bids are not received, the City of High Point must re-advertise for an additional seven days (after the second bid opening we can go with one bid, if only one received).
- 5 % bid bonds/ P & P bonds
- Award to lowest, responsible, responsive, bidder
- Contract in writing with UG provisions
 - Contractor must initial
- Request purchase order once you have a signed contract
- Document Procedures that you followed

Construction and Repair Contracts (\$500,000 and above)

- Price analysis before bidding
- Specs available to bidders
- W-9
- COI
 - City of High Point listed as certificate holder
 - Workers Compensation
 - Policy dates must cover dates of contract
- Formal advertising
 - Newspaper ad for full seven days before bid opening
 - MWBE- at least seven days before bid opening
- Sealed bids
 - Bids must be sealed
 - Three (3) bid minimum is required- If three bids are not received, the City of High Point must re-advertise for an additional seven days (after the second bid opening we can go with two bids, if only two are received).
- 5 % bid bonds/ P & P bonds
- Award to lowest, responsible, responsive, bidder
- Request purchase order once you have a signed contract
- Document Procedures that you followed

Also, please remember if anyone helped you with the contract and/or scope of work they **CANNOT** bid on this project.

State Exceptions Not Allowed Under UG (Can use state contract and group purchasing for micro-purchases below \$10,000)

- Piggybacking
- Group Purchasing Programs
- State Contract
- Sole Source

You cannot under any circumstance break a purchase into a multiple small purchases to avoid bidding requirements

Resources

MWBE Solicitation- <https://ncadmin.nc.gov/businesses/historically-underutilized-businesses-hub/submit-contractor-bid-opportunity-hub>

*****Always ensure the contractor is not listed on sam.gov as a debarred vendor.**

Appendix A

City of High Point Quick Reference Guide Thresholds & Procedures for Commodity Procurement

Apparatus, Supplies, Materials, or Equipment				
Threshold	Approvals Required	Procedure	Form of Contract	Contract Signature Authority
Up to \$9,999	Department Director	<p>Department expected to seek best value/competition or use available state contract or cooperative purchasing entity</p> <p>No quotes required</p> <p>Department purchases with P-Card (up to p-card limit)</p> <p>Backup documentation provided as necessary</p> <p>Department enters Requisition if p-card is not or cannot be used</p>	<p>Procurement Card</p> <p>Purchase Order</p>	N/A
\$10,000 to \$29,999	<p>Department Director</p> <p>Purchasing Manager</p>	<p>Department gets <u>minimum 3 quotes</u> on vendor letterhead or use available state contract or cooperative purchasing entity</p> <p>Quotes/Award decision/Backup documentation scanned to Supporting Documents file</p> <p>Department enters requisition and submits written specifications to the Purchasing Division</p> <p>Department recommendation received from Department Head</p> <p>Purchasing Manager awards bid</p>	Purchase Order	N/A

<p>\$30,000 to \$89,999</p> <p>(Allow 2-3 Weeks Lead Time)</p>	<p>Department Director</p> <p>Purchasing Manager</p> <p>Financial Services Director</p>	<p>Department completes department bid information form, submits written specifications and one quote from vendor to the Purchasing Division for processing</p> <p>Purchasing Division required to obtain a minimum of one (1) INFORMAL BIDS</p> <p>Department Recommendation Form received from Department Head</p> <p>Financial Services Director awards bid</p>	<p>Purchase Order and/or City Standard Contract; with City Attorney Approval</p>	<p>City Manager, Deputy City Manager or Assistant City Mgr.</p>
<p>\$90,000 and over</p> <p>(Allow 4-6 Weeks Lead Time)</p>	<p>Department Director</p> <p>Purchasing Manager</p> <p>Financial Services Director</p> <p>City Council</p>	<p>Department submits written specifications to the Purchasing Division for processing</p> <p>Purchasing Division required to obtain a minimum of <u>one (1) FORMAL BID</u></p> <p>Department submits Council Recommendation Form to Purchasing</p> <p>Purchasing submits Council Recommendation Form to Financial Services Director</p> <p>Financial Services Director submits Council Recommendation form to City Manager or Assistant City Manager for presentation to City Council</p> <p>City Council awards bid</p> <p>Purchase Requisition entered by Department when Purchase of Apparatus, Supplies, Materials, or Equipment</p>	<p>Purchase Order and/or City Standard Contract; with City Attorney Approval</p>	<p>Mayor or City Manager (if authorized)</p>

City of High Point
Quick Reference Guide
Thresholds & Procedures for Construction & Renovation Procurement

Construction & Renovation				
Threshold	Approvals Required	Procedure	Form of Contract	Contract Signature Authority
Up to \$9,999	Department Director	<p>Department expected to seek best value/competition or use available state contract or cooperative purchasing entity</p> <p>No quotes required</p> <p>Department purchases with P-Card (up to p-card limit)</p> <p>Backup documentation provided as necessary</p> <p>Department enters Requisition if p-card is not or cannot be used</p>	<p>Procurement Card</p> <p>Purchase Order</p>	N/A
\$10,000 to \$29,999	<p>Department Director</p> <p>Purchasing Manager</p>	<p>Department gets <u>minimum 3 quotes</u> on vendor letterhead or use available state contract or cooperative purchasing entity</p> <p>Quotes/Award decision/Backup documentation scanned to Supporting Documents file</p> <p>Department enters requisition and submits written specifications to the Purchasing Division</p> <p>Department recommendation received from Department Head</p> <p>Purchasing Manager awards bid</p>	Purchase Order	N/A

<p>\$30,000 to \$499,999</p> <p>(Allow 2-3 Weeks Lead Time)</p> <p>Informal Range</p>	<p>Department Director</p> <p>Purchasing Manager</p> <p>Financial Services Director</p>	<p>Department completes department bid information form, submits written specifications and one quote from vendor to the Purchasing Division for processing</p> <p>Purchasing Division required to obtain a minimum of one (1) INFORMAL BIDS</p> <p>Department Recommendation Form received from Department Head</p> <p>Financial Services Director awards bid up to \$89,999</p> <p>City Council awards bid at \$90,000 and above.</p> <p>Purchase Requisition entered by Financial Services Dept when Construction, Repair and/or Renovation at/or over the amount of \$90,000</p>	<p>Purchase Order and/or City Standard Contract; with City Attorney Approval</p>	<p>City Manager, Deputy City Manager or Assistant City Mgr.</p>
<p>\$500,000 and over</p> <p>(Allow 4-6 Weeks Lead Time)</p> <p>Formal Range</p>	<p>Department Director</p> <p>Purchasing Manager</p> <p>Financial Services Director</p> <p>City Council</p>	<p>Department submits written specifications to the Purchasing Division for processing</p> <p>Purchasing Division required to obtain a minimum of <u>three (3) FORMAL BIDS</u></p> <p>Department submits Council Recommendation Form to Purchasing</p> <p>Purchasing submits Council Recommendation Form to Financial Services Director</p> <p>Financial Services Director submits Council Recommendation form to City Manager or Assistant City Manager for presentation to City Council</p> <p>City Council awards bid</p> <p>Purchase Requisition entered by Financial Services Dept when Construction, Repair and/or Renovation at/or over the amount of \$90,000</p>	<p>Purchase Order and/or City Standard Contract; with City Attorney Approval</p>	<p>Mayor or City Manager (if authorized)</p>

Appendix B

City of High Point Procurement Forms



DEPARTMENTAL BID INFORMATION FORM
Must be completed and forwarded to Purchasing to initiate bid process

Department Name	<input type="text"/>	End User Name	<input type="text"/>	End User Phone #	<input type="text"/>
Commodity or Service to be Bid	<input type="text"/>			Pre-Bid Conference Requested	<input type="text"/>
Annual Contract?	<input type="checkbox"/> Yes	<input type="checkbox"/> No			

Specifications: Must be clear, concise and detailed.
Please provide specifications via e-mail in Word or Excel format.

Estimated Cost	<input type="text"/>	<u>Please provide one itemized quote from one vendor on company letterhead that includes shipping, installation, etc. and a total cost.</u>
----------------	----------------------	--

Please provide vendors that you wish to receive the bid by providing the following information.

Vendor Name (1)	<input type="text"/>	Vendor Contact	<input type="text"/>	
Vendor e-mail	<input type="text"/>	Phone #	<input type="text"/>	Fax # <input type="text"/>
Vendor Name (2)	<input type="text"/>	Vendor Contact	<input type="text"/>	
Vendor e-mail	<input type="text"/>	Phone #	<input type="text"/>	Fax # <input type="text"/>
Vendor Name (3)	<input type="text"/>	Vendor Contact	<input type="text"/>	
Vendor e-mail	<input type="text"/>	Phone #	<input type="text"/>	Fax # <input type="text"/>
Expected Delivery Date	<input type="text"/>			

End User Signature	<input type="text"/>	Date/Time Field	<input type="text"/>
Department Head Signature	<input type="text"/>	Date/Time Field	<input type="text"/>

**SUBMIT COMPLETED FORM ALONG WITH SPECIFICATIONS (WORD OR EXCEL DOCUMENT)
AND THE (1) ONE QUOTE TO THE
PURCHASING INBOX at purchasing@highpointnc.gov**



Requisition #

CITY OF HIGH POINT
SOLE SOURCE JUSTIFICATION FORM
(For Items Costing **\$10,000.00 or More**)
Statutory Reference N.C.G.S. 143-129(e)6

Vendor:

Item(s):

Justification:

Estimated expenditure for the above item(s):

Accounting Unit and Account(s):

CHECK ALL ENTRIES BELOW THAT APPLY TO THE PROPOSED PURCHASE.
ATTACH A MEMO CONTAINING JUSTIFICATION AND SUPPORT DOCUMENTATION.

1. ☐ Performance or price competition for a product are not available.
2. ☐ A needed product is available from only one source of supply.
3. ☐ Standardization or compatibility is the overriding consideration.
4. ☐ The parts/equipment are required from this source to permit standardization.
5. ☐ None of the above applies. A detailed explanation and justification for this sole source request is contained in attached memo and support documentation.

The undersigned requests that competitive procurement be waived and that the vendor identified as the supplier of the material or service described in this sole source justification be authorized as a sole source for the material or service.

Department Head/Authorized Personnel

Department/Division Date

APPROVAL PROCESS

Purchasing Manager

Financial Services Director

City Council (\$30,000 – Up)



**FORMAL BID RECOMMENDATION
REQUEST FOR COUNCIL APPROVAL**

DEPARTMENT:

COUNCIL AGENDA DATE:

BID NO.: CONTRACT NO.: DATE OPENED:

DESCRIPTION:

PURPOSE:

COMMENTS:

RECOMMEND AWARD TO: AMOUNT:

JUSTIFICATION:

ACCOUNTING UNIT	ACCOUNT	ACTIVITY	CATEGORY	BUDGETED AMOUNT
TOTAL BUDGETED AMOUNT				

DEPARTMENT HEAD: DATE:

The Purchasing Division concurs with recommendation submitted by the and recommends
award to the lowest responsible, responsive bidder in the amount of \$.

PURCHASING MANAGER: DATE:

Approved for Submission to Council
FINANCIAL SERVICES DIRECTOR: DATE:

CITY MANAGER: DATE:



DEPARTMENT RECOMMENDATION
Informal Bid(s)

DEPARTMENT:

BID #: DATE OPENED:

DESCRIPTION:

PURPOSE:

COMMENTS:

RECOMMEND AWARD TO: AMOUNT:

JUSTIFICATION:

ACCOUNTING UNIT	ACCOUNT	ACTIVITY	CATEGORY	BUDGETED AMOUNT
TOTAL BUDGETED AMOUNT				

DEPARTMENT HEAD: DATE:

PURCHASING MANAGER: DATE:

FINANCIAL SERVICES DIRECTOR: DATE:

(\$30,000 - \$90,000)



DESCRIPTION:

COMMENTS:

JUSTIFICATION:

DATE:

Appendix C

Dollar Thresholds in North Carolina Public Contracting Statutes

Dollar limits and statutory authority current as of November 1, 2015



Requirement	Threshold	Statute
Formal bidding	<i>(estimated cost of contract)</i>	
Construction or repair contracts	\$500,000 and above	G.S. 143-129
Purchase of apparatus, supplies, materials, and equipment	\$90,000 and above	G.S. 143-129
Informal bidding	<i>(actual cost of contract)</i>	
Construction or repair contracts	\$30,000 to formal limit	G.S. 143-131
Purchase of apparatus, supplies, materials, and equipment	\$30,000 to formal limit	G.S. 143-131
Construction methods authorized for building projects	Over \$300,000 <i>(estimated cost of project)</i>	G.S. 143-128(a1)
Separate Prime		
Single Prime		
Dual Bidding		
Construction Management at Risk (G.S. 143-128.1)		
Design-Build and Design-Build Bridging (G.S. 143-128.1A; G.S. 143-128.1B)		
Public Private Partnership (P3) (G.S. 143-128.1C)		
Historically Underutilized Business (HUB) requirements		
Building construction or repair projects		
– Projects with state funding (<i>verifiable 10% goal required</i>)	\$100,000 or more	G.S. 143-128.2(a)
– Locally funded projects (<i>formal HUB requirements</i>)	\$300,000 or more	G.S. 143-128.2(j)
– Projects in informal bidding range (<i>informal HUB requirements</i>)	\$30,000 to \$500,000*	G.S. 143-131(b)
*Note: Formal HUB requirements should be used for informally bid projects costing between \$300,000 and \$500,000		
Limit on use of own forces (force account work)	<i>(not to exceed)</i>	G.S. 143-135
Construction or repair projects	\$500,000 (total project cost) or \$200,000 (labor only cost)	
Bid bond or deposit		
Construction or repair contracts (<i>at least 5% of bid amount</i>)	Formal bids (\$500,000 and above)	G.S.143-129(b)
Purchase contracts	Not required	
Performance/Payment bonds		
Construction or repair contracts (<i>100% of contract amount</i>)	Each contract over \$50,000 of project costing over \$300,000	G.S. 143-129(c); G.S. 44A-26
Purchase contracts	Not required	
General contractor's license required	\$30,000 and above	G.S. 87-1
Exemption	Force account work (<i>see above</i>)	
Owner-builder affidavit required	Force account work (<i>see above</i>)	G.S. 87-14(a)(1)
Use of licensed architect or engineer required		
Nonstructural work	\$300,000 and above	G.S. 133-1.1(a)
Structural repair, additions, or new construction	\$135,000 and above	
Repair work affecting life safety systems	\$100,000 and above	
Selection of architect, engineer, surveyor, construction manager at risk, or design-build contractor		
"Qualification-Based Selection" procedure (QBS)	All contracts unless exempted	G.S. 143-64.31
Exemption authorized	Only projects where estimated fee is less than \$50,000	G.S. 143-64.32

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Appendix D

Mini-Brooks Act FAQ's

Norma R. Houston

Published for Coates' Canons on September 28, 2011.



NOTE: This post has been updated to reflect changes enacted by the General Assembly in 2013.

In North Carolina, the procurement of professional services performed by architects, engineers, surveyors, and construction managers at risk is governed by G.S. 143-64.31, sometimes referred to as the "Mini-Brooks Act." Eileen Youens authored an excellent blog post on Contracting for Design Services which describes the requirements of the Qualifications-Based Selection (QBS) process for procuring services covered under the Mini-Brooks Act. If you've not read her post (or not read it in a while), I commend it to you. Following are some frequently asked questions about the Mini-Brooks Act and a trivia bonus question that will explain why the picture above is included in this post.

What is QBS?

The QBS process is a procurement process that focuses on the qualifications of potential firms rather than their fees or the price of the contract. Local governments must use this process when selecting an architect, engineer, surveyor, construction manager at risk, design-builder, or private developer for a public-private partnership development contract (additional procedural requirements apply when selecting a design-builder or a public-private partnership developer - for more information, see my posts on design-build, design-build bridging, and P3). The firm that the local government wishes to contract with is selected based on "demonstrated competence and qualification for the type of professional services rendered." (G.S. 143-64.31 (a)) This is often done by using a request for qualifications (RFQ) to solicit responses from interested firms and individuals.

Is QBS the same as competitive bidding?

No. QBS is *not* competitive bidding, which focuses on price under the lowest responsive responsible bidder standard of award. In fact, the initial determination of which firm is the best qualified must be done “without regard” to the fee or price other than unit cost (an example of unit cost would be a general hourly fee, but articulation of fees that can be easily correlated as a fixed price or bid is prohibited). So, the unit of government cannot request firms to submit an estimated total fee or contract price when responding to the RFQ.

When can price be considered?

After evaluating RFQ responses submitted by interested firms, the unit of government can negotiate a “fair and reasonable” price for the contract with the firm the unit has determined is the best qualified based on the evaluation criteria used by the unit to evaluate responses. The unit of government can also consider price if it exempts itself from the requirements of the Mini-Brooks Act under G.S. 143-64.32, which is discussed later in this post.

What if negotiations with the best qualified firm fail?

If the unit of government is not able to negotiate a fair and reasonable contract price with the best qualified firm, it must terminate negotiations with that firm and initiate negotiations with the next best qualified firm. This requirement suggests that firms should be ranked in order of quality when responses to the RFQ are evaluated.

What if negotiations with the next best qualified firm fail?

While G.S. 143-64.31 does not specifically authorize continued negotiations with firms beyond the next best qualified, it is reasonable to interpret the statute to allow this (although the courts have not addressed this question). Under federal law, continued negotiations with lower-ranked firms in priority order is actually required, obligating the agency head to undertake negotiations with the next qualified firm on the list and so on, and “continuing the process until an agreement is reached.” (40 U.S.C. § 1104(b)) Given that North Carolina’s Mini-Brooks Act is patterned after federal law (the Brooks Act, which is discussed at the end of this post), one could argue that the intent of G.S. 143-64.31 is to give similar authorization to continue negotiations with subsequent firms until a contract agreement is eventually reached, assuming the unit wishes to do so. The unit could also stop all negotiations and start over in the hope of a more successful outcome, or it could exempt itself from the QBS process requirements entirely under G.S. 143-64.32 (see below).

Is there a minimum cost threshold for QBS requirements?

No. Unlike formal and informal purchase and construction and repair contracts, there are no cost thresholds that trigger the requirements of the Mini-Brooks Act. Unless the unit of government exempts itself from these requirements under G.S. 143-64.32 (see below), the requirements of G.S. 143-64.31 apply regardless of whether the estimated cost of the contract is \$100 or \$1 million dollars.

Must the RFQ be formally advertised?

No. The Mini-Brooks Act does not require formal advertisement like formal purchase and construction contracts under G.S. 143-129(b). Instead, the unit of government must “announce all requirements” for the services sought, but the statute does not define what “announce” means. When a word is not specifically defined, it is given its plain meaning for purposes of statutory interpretation. Webster’s defines “announce” as “to make publicly known; to proclaim.” So, the announcement must be done in some public fashion and for some reasonable period of time to allow firms the opportunity to respond. In her blog post, Eileen offers good suggestions such as posting on the unit of government’s website, advertising in trade journals or the newspaper, or contacting firms directly. Regardless of which method is used, the goal is to get competition for the services needed so the unit can secure the best qualified firm.

Do minority business participation requirement apply?

Yes. The unit of government must make a good faith effort to notify minority firms of the opportunity to submit their qualifications for the services sought. The statute does not specify what these good faith efforts must consist of, so a good practice is to use the same methods as those used to encourage minority participation in informal construction and repair contracts. This is another reason to think broadly about the methods to use in announcing the requirements for the services sought.

Is there a minimum number of responses that have to be received?

No. Unlike formal construction contracts that require a minimum of three bids, the Mini-Brooks Act does not require the unit to receive a minimum number of responses before any can be considered, so presumably if only one response is received, the unit may still consider the qualifications of that firm.

Must responses be submitted sealed?

No. The Mini-Brooks Act does not require responses to be sealed, but the unit can elect to require this if it chooses. If it chooses to do so, it should include this requirement in the RFQ.

Must responses be opened at a public opening?

No. The Mini-Brooks Act does not require this, and units of government do not normally elect to set a specific time and location for opening responses (and, if the unit does not require responses to be submitted sealed, setting a time for opening is irrelevant). If the unit sets a deadline for *receiving* responses, this deadline should be included in the RFQ.

Are responses a matter of public record?

Yes. Unless the unit of government requires responses to be submitted sealed, responses will be open to public inspection when received by the unit of government. If required to be sealed, the response will be open to public inspection when it is unsealed (literally, when the

envelope is opened). In addition, rankings and any other written evaluations of qualifications and responses will also be open to the public and subject to inspection by anyone, including the firms that have submitted responses.

What are “resident firm” preferences and do they apply?

Yes. G.S. 143-64.31(a1) requires reciprocal resident firm preferences. This means that the unit of government must give preference to “resident” firms in this state over “nonresident” firms from another state to the same extent that the other state grants a resident preference to its in-state firms. A “resident” firm is one that has paid unemployment taxes or income taxes in North Carolina and whose principal place of business is located in this state. Note that this is not a “local preference” in the sense that a firm in one geographic area in this state, such as a city or county, can be given preference over a firm from another in-state geographic area.

Since this type of preference requires an analysis of price, it would only come into play if the unit of government exempts itself from the Mini-Brooks Act (see below). For a more detailed discussion of local preferences in general, see Eileen’s six-series blog posts on local preferences (the sixth post is linked here; links to the five prior installments are contained within that post).

How does a local government exempt itself from the Mini-Brooks Act?

G.S. 143-64.32 authorizes a unit of local government to exempt itself from the Mini-Brooks Act, which means that it will not be required to use the QBS process and may select an architect, engineer, surveyor, or alternative construction delivery method firm by whatever method it chooses (or no method at all). The statute does not impose much by way of requirements for utilizing the exemption – it simply requires the unit to put the exemption in writing. However, the exemption is capped at \$50,000, meaning the estimated cost of the contract cannot exceed this amount. Contracts with an estimated cost of \$50,000 or more *cannot* be exempted and the QBS process *must* be used. Governing board approval is not required, but many local governments choose to do so anyway, which is a good practice to follow. Sample language for a board resolution is available on the SOG local government purchasing website.

What justification must be given for the exemption?

G.S. 143-64.32 does not require the unit to provide any justification for utilizing the exemption. The statute merely requires the exemption be in writing and the estimated cost of the contract be less than \$50,000. Although units are not required to provide a justification for using the exemption, units may choose to do so as long as the justification is not for an illegal purpose (for example, citing a justification that constitutes unlawful discrimination).

Can a local government adopt a “blanket” exemption?

Local governments often prefer to have exemptions approved by their governing boards, but may find it cumbersome to take each individual exemption to the board for adoption, especially when the contracts involve small projects. And sometimes, a local government may wish to put an architect or engineer on retainer for a period of time, such as for a fiscal year, to

call upon on a case-by-case basis, but may not have any specific projects in mind when the architect or engineer is hired. Can the local government adopt a “blanket” exemption in these instances?

G.S. 143-64.32 states that the local government may exempt “particular projects” from the requirements of the Mini-Brooks Act. In my opinion (as was Eileen’s, although opinions on this question vary as Eileen notes in her post), this language suggests that “blanket exemptions” are not authorized. While the courts have not yet decided this question, the NC Board of Examiners for Engineers and Surveyors has taken the position that exemptions must be granted on a project-by-project basis, so an engineer runs the risk of violating licensing requirements by responding to a RFQ that solicits price if the exemption of that project is not legally valid. To avoid an inadvertent violation of the statute (by any party), the safer course is to assume that blanket exemptions are not authorized and that the exemption must be adopted on a project-by-project basis. However, it does not seem inconsistent with the statute to include multiple projects in one exemption if the unit has identified several specific projects it plans to contract for. Furthermore, given that governing board approval is not statutorily required, the board could authorize a staff member such as the manager to grant exemptions (in writing, of course) for certain projects so long as the contracts entered into under the exemption are less than \$50,000.

Trivia Bonus Question: Where did the name “Mini-Brooks Act” come from?

The name “Mini-Brooks Act” comes from the federal law, the Brooks Act, after which our state law was patterned. The Brooks Act was passed by Congress in 1972 to establish the QBS process for procuring architectural and engineering services by federal agencies. 40 U.S.C. 1101 - 1104 (P.L. 92-582). In the ensuing years, most states have adopted versions of the Brooks Act commonly referred to as “Little Brooks Acts” or “Mini-Brooks Acts” (North Carolina’s version was enacted by our General Assembly in 1987). The federal law is referred to as the Brooks Act after U.S. Rep. Jack Brooks (D-TX), who authored the legislation.

So, what about the picture at the beginning of this post? Rep. Brooks was part of the motorcade in Dallas, Texas, on November 22, 1963, when President John F. Kennedy was assassinated, and later was aboard Air Force One when Lyndon Johnson was sworn in following the President’s death (that’s Rep. Brooks standing right behind Mrs. Kennedy).

Accessibility

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Appendix E



CITY OF HIGH POINT

PROCUREMENT CARD SYSTEM POLICIES AND PROCEDURES MANUAL

City of High Point

Procurement Card System Policies and Procedures Manual

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Procurement Card System Policies & Procedures Manual

1.0 PURPOSE:

To establish a methodology for use and to define the limits of the City's Procurement Cards provided to authorize personnel in order to purchase goods and/or services required by the City of High Point.

2.0 APPLICABILITY:

This procedure is applicable to all personnel who are issued a Procurement Card.

3.0 ATTACHMENTS:

- | | |
|------------|--|
| 3.1 Sample | "Procurement Card Request Form" |
| 3.2 Sample | "Lost or Stolen Procurement Card Notification" |
| 3.3 Sample | "Procurement Card Destruction Notice" |

4.0 GENERAL:

4.1 ABBREVIATIONS

- | | | |
|-------|--------------|------------------|
| 4.1.1 | PCard | Procurement Card |
|-------|--------------|------------------|

4.2 DEFINITIONS

- | | | |
|-------|------------------------------|---|
| 4.2.1 | Vendor | A company from which the City of High Point is purchasing materials, equipment or services under the provisions of this procedure. |
| 4.2.2 | Cardholder | City of High Point personnel who have been issued procurement Cards and who are authorized to make purchases in accordance with these procedures. |
| 4.2.3 | Proxy | This individual may be a cardholder's supervisor or Departmental Coordinator, who will review and approve a cardholder's monthly charges. Every cardholder must have a proxy. |
| 4.2.4 | Statement Of Account | This is the monthly listing of all transactions by the cardholder. Bank of America will send each cardholder a listing of charges monthly. |
| 4.2.5 | Single Purchase Limit | The dollar limit of procurement authority amount delegated to cardholders. This dollar limit may vary from cardholder to cardholder. |

- 4.2.6 Monthly Cardholder Limit** This is a maximum monthly dollar limit established for each cardholder.
- 4.2.7 Transaction** The act of making a purchase with the Procurement Card.
- 4.2.8 Pre-Audit** In order to be in compliance with the Local Government Budget And Fiscal Control Act, the Accounting Division will encumber an estimated monthly expenditure.
- 4.2.9 Card Administrator** Individuals authorized by the City of High Point to add or delete cards and to communicate with Bank of America and take any action needed to maintain the cards.

4.3 RESPONSIBILITIES

- 4.3.1** The Purchasing Manager, under the direction of the Director of Financial Services, shall be responsible for the implementation and enforcement of this procedure.
- 4.3.2** All employees issued Procurement Cards shall be responsible for the card and its use in accordance with this procedure.

PROCEDURE:

A. INTRODUCTION

- a. This program is being established to provide a more rapid turnaround of requisitions for low dollar value goods, and to reduce paperwork and handling costs. By using the PCard System, the traditional requisition - pricing inquiry - order placement - delivery of goods and invoice - voucher review -payment cycle is greatly reduced. Employees who have been issued PCards may now initiate transactions in-person or by telephone, within the limits of this procedure. The Finance Department will make monthly settlements with the bank.

B. RECEIVING A CREDIT CARD

- a. Department heads may propose personnel to be cardholders by completing the New Cardholder Enrollment Form (Attachment 3.1). Request forms should be forwarded to the Purchasing Division for approval of the cardholder.
- b. All approved Cardholder's shall take part in a training class on the proper use of the PCard prior to receiving his/her card.
- c. Upon receipt, training, and review of the request form, the Purchasing staff shall authorize the bank to issue a PCard.
- d. The approved Cardholder shall be issued a copy of this procedure and shall be required to sign the New Cardholder Enrollment Form to indicate that the cardholder understands the procedures and the responsibilities of a cardholder.
- e. The Purchasing Division shall maintain all records of all PCard requests, limits, cardholder transfers, and lost/stolen/destroyed card information following the record retention schedule.

C. AUTHORIZED PROCUREMENT CARD USE

- a. The PCard that each Cardholder receives has his/her name embossed on it and shall **ONLY** be used by the Cardholder. **NO OTHER PERSON IS AUTHORIZED** to use this card. The Cardholder may make transactions on behalf of others in their department/division. However, the Cardholder is responsible for **all** purchases charged to his/her card.
- b. Many vendors now use electronic authorization for all purchases regardless of the amount. When a vendor seeks authorization for a purchase, the bank's system will check the Cardholder's purchase limits.

- c. Use of the PCard shall be limited to the following conditions:
 - i. The total value of a transaction shall not exceed a Cardholder's single purchase limit. Payment for a purchase **WILL NOT** be split into multiple transactions to stay within the single purchase limit.
 - ii. All items purchased "over the counter" must be immediately available at the time of PCard use. No backordering of merchandise is allowed. A purchase order should be issued when items are not available.
 - iii. The Cardholder will retain vendors' receipts, records of telephone orders and/or copies of mail orders and file for future reconciliation of the monthly charges.

D. UNAUTHORIZED PROCUREMENT CARD USE

- a. The procurement card **SHALL NOT BE USED** for the following:
 - i. Personal purchases or for personal identification
 - ii. A single purchase that exceeds the Cardholder's single purchase limit
 - iii. Meals while traveling, gasoline, or entertainment expenses except as authorized
 - iv. Cash advances
 - v. Telephone calls or monthly service
 - vi. *All items under contract or carried by the Warehouse are not to be procured using the PCard.*
- b. Any exceptions will be handled on an individual basis with the respective department/division by the Purchasing Division.
- c. **A Cardholder who makes unauthorized purchases or carelessly uses the PCard will be liable to the City of High Point for the total dollar amount of such purchases plus any administrative fees charged by the bank in connection with the misuse. The Cardholder shall also be dismissed and will be subject to legal action.**

E. MAKING A PURCHASE

- a. **Best Price** City of High Point procurement procedures permits a purchase of goods and materials, if the value is less than \$10,000.00, from a "Vendor of Choice". This implies the possibility of not comparing sources or competition between vendors. However, it is City of High Point policy to seek competition and the lowest prices within the parameters of quality and delivery. Accordingly, whenever making a PCard purchase, the Cardholder **will** check as many sources of supply as reasonable to the situation to assure best price and delivery.

F. PURCHASE CHECKLIST

- a. Cardholders will utilize the following "checklist" when making a purchase. Once a vendor is designated and that vendor confirms that the goods or service is available, meets the specification and delivery requirements, etc., cardholder will:
 - i. Confirm that the vendor will accept the VISA® card.
 - ii. Advise the vendor that the City of High Point is subject to state and local sales tax. Make sure sales tax is on your receipt.
 - iii. If the goods are to be delivered, direct the vendor to include the following information on the shipping label and packing list:
 - 1. Cardholder's name and telephone number
 - 2. Complete delivery address
 - 3. The words "PCard Purchase"
 - 4. The vendors order number
 - iv. Give the vendor your card or card number.
 - v. It is extremely important that all purchases be sent to the cardholder ordering the merchandise.
 - vi. If necessary, advise the individuals within your area who receive merchandise of the vendor's name and order number, anticipated delivery date, number of boxes expected, freight carrier (UPS, Fed Ex, etc.) and to notify the Cardholder when the delivery is made.

G. CARDHOLDER RECORD KEEPING

- a. **Receipts** Whenever a PCard purchase is made, either over the counter or by telephone, receipts shall be retained as proof of the purchase. Such documents will be used to verify the purchases listed on the Cardholders monthly charge report.
- b. **Over the Counter Purchases** When the purchase is made over the counter, the Cardholder shall retain the invoice and "customer copy" of the charge receipt. The Cardholder is responsible to check that the vendor lists the quantity, fully describes the item(s), does not make arithmetic errors, and includes sales tax, prior to the Cardholder signing the slip.
- c. **Telephone Orders** When making a purchase by telephone, the Cardholder shall also document the transaction. Make a note of the person the goods or services were ordered from. Backorders are not allowed.

H. REVIEW OF MONTHLY STATEMENTS

- a. **Monthly Statement** At the during of each billing cycle, the Cardholder shall receive notification that charges are on the system for review and approval.
- b. **Cardholder/Proxy Review** The Cardholder/Proxy shall check each transaction listed on the computer against his/her receipts and any shipping documents to verify charges. The original sales invoices or receipts for all items approved for payment **MUST** be securely attached to a copy of the Monthly Statement, in sequence, and signed by the Cardholder and Supervisor. This must be forwarded to Purchasing in interoffice mail by the 15th of each month.

The Proxy shall check the Cardholder's monthly charges and confirm with the Cardholder the following items as a minimum:

- i. Receipts exist for each purchase
 - ii. The goods were received or that the services were performed
 - iii. The Cardholder has complied with applicable procedures
- c. The Department Head will ensure that the Cardholder was authorized to make the purchases, and the purchases were made in accordance with all the applicable policies.
- d. **Monthly Reconciliation** The Cardholder shall review the monthly charges weekly on the computer after notification.

- e. If the Cardholder cannot review charges, the Proxy is responsible for reviewing and approval. Upon the Cardholders return, the Proxy and Cardholder shall ensure that the reconciliation of the statement was correct.
- f. Frequent non-allowable purchases, late statements, or incomplete statements may result in temporary card suspension followed by mandatory PCard training.
- g. **Missing Documentation** Cardholders shall make every effort to have documentation for every transaction. If the Cardholder does not have documentation for a transaction listed on the monthly statement, he/she shall complete the Lost/Missing Receipt Form that includes a description of the item(s) purchased, date of purchase, vendor's name, etc. Department Directors must sign the lost/missing receipt form.
- h. **Merchandise Returns** If an item is not satisfactory, received wrong, damaged and/or defective, duplicate order, etc., the following steps should be followed:

Every vendor is different for return policies - make sure that your return meets their criteria without incurring a restocking fee. If required by the supplier, the Cardholder will obtain a "Return Material Authorization" (RMA) number. (Make a note of the person authorizing the return). The item(s) to be returned should be repacked in the original manufacturer's carton. Make sure a credit is on the next month's charge report.
- i. **Disputed Charges** Do NOT dispute charges. Report all fraudulent activity directly to Bank of America's Fraud Hotline: 866-500-8262
- j. If an item has been returned and a credit voucher received, the Cardholder shall verify that this credit is reflected on the monthly statement.
- k. If items purchased or credits are not listed on the monthly statement, the appropriate transaction documentation shall be **RETAINED** by the Cardholder until the next monthly statement.
- l. If the purchase or credit does not appear on the statement within sixty days after the date of the purchase, the Cardholder or Proxy shall notify the Purchasing Manager to assist in resolving the problem.
- m. If the Cardholder's weekly statement lists a transaction where the goods have not been received or some other discrepancy, the Cardholder should resolve these issues. Most exceptions can be resolved between the Cardholder and the Vendor. If the dispute cannot be settled at this level, the Cardholder shall advise the Purchasing Manager in writing.

J. CARD SECURITY

- a. It is the Cardholder's responsibility to safeguard the PCard to the same degree that a Cardholder safeguards his/her personal credit information.
- b. **The Cardholder must not allow anyone to use his/her card. A violation of this trust will result in that Cardholder having his/her card revoked and disciplinary action taken.**

K. LOST OR STOLEN CARDS.

- a. If the card is lost or stolen, the Cardholder must immediately notify the Bank at the following number **1-888-449-2273**, in order to limit the City's liability. Representatives are available 24 hours a day. Advise the representative that the call is regarding a Visa PCard.
- b. The Purchasing Manager must also be notified immediately, **883-3222**.
- c. The Cardholder shall also notify his/her Proxy of the lost or stolen card within one working day after discovering the card missing. The Cardholder shall also submit the Lost/Stolen PCard Notification, Attachment 3.3, immediately.
- d. A copy of this report shall be forwarded to the Purchasing Manager and the Finance Department. The Purchasing Manager shall also send the "Lost or Stolen Card Notification" form to the Bank.
- e. A new card will be issued to the Cardholder. If the original card is later found by the Cardholder after being reported lost, it shall be cut in half and given to the Proxy. The Proxy shall complete the "Card Destruction Notice" form and forward the card pieces and form to the Purchasing Manager who will notify the Bank.

L. CARDHOLDER TRANSFER/TERMINATION

- a. Prior to a transfer to another City of High Point department/division or upon termination from the City of High Point, the Cardholder shall surrender the PCard to the Department Manager. Upon receipt, the Proxy will review, approve and forward to the Finance Department, the month end PCard statement. The Proxy shall cut the PCard in half, complete the "Card Destruction Notice" and forward the pieces and the form to the Purchasing Manager, who will notify the Bank.
- b. If this is a transfer, when the Cardholder reports to his/her new department/division, he/she may request a new card.

CITY OF HIGH POINT
NEW CARDHOLDER ENROLLMENT FORM

Complete Section I – IV and return form to Purchasing

I. EMPLOYEE/CARDHOLDER INFORMATION

Employee Name: _____ Department: _____ Division: _____

Employee Phone: _____

Employee's Supervisor: _____ Phone Number: _____

II. CARD LIMITS: PLEASE CHOOSE ONE LEVEL: (LEVELS 6 AND 7 REQUIRE FINANCE DIRECTORS APPROVAL)

CHOICE	DESCRIPTION	TRANSACTION	DAILY	MONTHLY
<input type="checkbox"/>	Level 1	\$ 250	\$ 500	\$1,000
<input type="checkbox"/>	Level 2	\$ 500	\$1,000	\$2,000
<input type="checkbox"/>	Level 3	\$ 500	\$1,000	\$4,000
<input type="checkbox"/>	Level 4	\$ 750	\$1,500	\$3,000
<input type="checkbox"/>	Level 5	\$1,000	\$2,000	\$4,000
<input type="checkbox"/>	Level 6	\$1,500	\$3,000	\$4,000
<input type="checkbox"/>	Level 7	\$5,000	\$5,000	\$5,000

III. APPROVAL: I have read and understand the Procurement Card Policy and Procedures and authorize the above employee to make charges on behalf of the department.

Department Director: _____

Department Director Signature: _____ Date: _____

Default Account Number: _____ - _____ - _____ - _____
Account Unit Account Activity Category

IV. PROXY INFORMATION: (to be used if Proxy will be responsible for monthly reconciliation)

Cardholders Proxy: _____ E-Mail Address: _____@highpointnc.gov

*****STOP - THIS SECTION IS TO BE COMPLETED WHEN EMPLOYEE RECEIVES CARD*****

V. CARDHOLDER'S AGREEMENT

- I understand that the use of the City of High Point Procurement Card for small dollar purchases and repairs is a standard city procedure.
- I will use the City of High Point Procurement Card issued to me as directed by my supervisor and in accordance with the Procurement Card System Policy and Procedures Manual.
- I will not permit other individuals to use the procurement card issued to me.
- I understand that purchases made with my card will be considered made by me and will be my responsibility.
- I will be responsible for the safekeeping of the card and if lost, I will immediately report the loss to my supervisor and the Purchasing Manager.
- I understand that my personal credit will not be affected by my use of the City of High Point Procurement Card.
- I understand that the use of the procurement card to purchase goods and services for other than the official use of the City of High Point is fraudulent. In accordance with the Personnel Ordinance Section 4-1-132 B (2) E, an employee guilty of fraudulent use **shall** be dismissed and will be subject to legal action. I further agree that I will reimburse the City of High Point for all incurred charges and fees (including attorney's fees and expenses) related to the collection of fraudulent charges.

I have read the Procurement Card System Policy and Procedures Manual, attended the required training session and fully understand and agree to adhere to the conditions listed above:

Card Acct Number _____ Date Issued _____ Exp Date _____

Employee Signature _____ Date _____

VI. AUTHORIZATION: PURCHASING MANAGER

Signature: _____ Date: _____



P-CARD LOST/ MISSING RECEIPT FORM

P-Card holders/Card Users are required to obtain original, itemized receipts for all transactions. If receipts are lost or missing this form must be completed and signed by the Cardholder/Card User and their Department Head.

Please read the instructions below:

☐

Attached is a copy or fax of the receipt.

☐

-OR - I certify that I have contacted the merchant and was unable to obtain a copy of the receipt; therefore, I have attached the itemized list of missing receipt information.

☐

A copy of the packing slip or invoice that confirms items and pricing.

Vendor Name: _____

Amount of Transaction: _____

Bank of America Transaction Number: _____

Date of Transaction: _____

Signature of Cardholder/Card User: _____

Date: _____

Department Head Signature: _____

Date: _____

ITEMIZED LIST OF MISSING RECEIPT		
Item Number	Item Description	Amount
SHIPPING		
TAX		
TOTAL		



CITY OF HIGH POINT

PROCUREMENT CARD DESTRUCTION RECORD

Date: _____

Memo to: Purchasing Manager

From: _____

The attached City of High Point Procurement Card was destroyed in the presence of the following individuals:

(Signature of Purchasing Manager/Personnel) Date

(Signature of Witness) Date

(Signature of Card Holder – If Applicable) Date

Appendix F

City of High Point Transit System

Supplemental Purchasing Policies & Procedures For Federal Transit Administration Funded Programs and Assistance

INTRODUCTION

This supplement to the purchasing and contracting policies for the City of High Point Transit System are not based upon a single statutory reference but rather are adopted to form compliance with a variety of statutory and policy provisions found in Federal and State laws and regulations and standing Orders and Resolutions as adopted or approved by the City Council of the City of High Point. This Supplement has been created to conform to the requirements of the *federal Transit Administration (FTA) Circular 4220.1F, Third Party Contracting Requirements*; and *North Carolina General Statutes which include N.C.G.S. 143-129*.

The policies contained herein are intended to establish a baseline for compliance with Federal law and regulations in addition to City of High Point Local Government policy. It is the responsibility of the Transit Manager and City of High Point Management to determine the disposition of any issue not specifically addressed herein or otherwise prescribed in law or regulation.

The City of High Point and the City of High Point Transit System is committed to maintaining high standards of performance based upon fair, ethical and professional business practices and welcomes recommendations for improvements to conformance, quality, and efficiency standards. Any such recommendations should be submitted in writing to the Purchasing Manager for the City of High Point and to the Transit Manager for the High Point Transit System.

FTA Guidance Documents and Links

FTA Comprehensive Review Guide

<https://www.transit.dot.gov/fy19-comprehensive-review-guide>

FTA Grant Management Circular

<https://www.transit.dot.gov/regulations-and-guidance/fta-circulars/award-management-requirements-circular-50101e>

Third Party Procurement Circular

<https://www.transit.dot.gov/regulations-and-guidance/fta-circulars/third-party-contracting-guidance>

Best Practices Procurement Manual http://www.fta.dot.gov/grants/13054_6037.html

<https://www.transit.dot.gov/funding/procurement/third-party-procurement/best-practices-procurement-manual>

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Responsibility and Authority

The Mayor has the authority for the City of High Point/City of High Point Transit System, hereafter referred to as the “Agency,” to enter into grant agreements with the North Carolina Department of Transportation (NCDOT) and Federal Transit Administration (FTA) and to purchase property and services and to enter into third-party contracts on behalf *City of High Point Transit System*. Grant applications submitted to NCDOT or FTA should include an authorizing resolution adopted by City Council and identify the position title of the authorized official. The authorized official may not delegate his/her authority to sign grant applications/agreements but may delegate other authorities, as he/she deems necessary. Any authorities delegated by the authorized official in regards to approval of grant reimbursement requests, grant budget revision/amendment requests, or grant project period of performance extension requests must be submitted in writing to NCDOT. Responsibility for the preparation of internal policies and procedures consistent with the provision of this manual remains with the City of High Point.

Fundamental Policy

Written Procurement Procedures.

Written procurement procedures are a requirement of 49 CFR 18 and FTA C 4220.1F. This Supplement is to be used with and considered part of City of High Point Purchasing Policies and Procedures to reflect applicable Federal, State and local laws and regulations and the requirements and standards identified in FTA C 4220.1F. NCDOT requires its grantees to use FTA procurement standards for purchases funded with Federal and/or State funds. When using Federal and State funds, the more restrictive requirements will be used, whether they are Federal, State, or local. When using State funds only, the Federal certifications and mandatory Federal contract clauses are not required. After adoption by City Council, these procedures will be reviewed annually by the Purchasing Manager and Transit Manager and updated as required.

Responsibility for Settlement of Contract Issues/Disputes.

The Agency will be responsible in accordance with good administrative practice and sound business judgment for the settlement of all contractual and administrative issues arising out of its procurements. These issues include, but are not limited to, source evaluation, protests of awards, disputes, and claims or other matters of a contractual nature. The Federal/State government will not substitute its judgment for that of this local government, unless the matter is primarily a Federal/State concern. Violations of the law will be referred to the local, State, or Federal authority having proper jurisdiction.

Written Protest Procedures.

The City of High Point Transit System follows the written protest and dispute resolution procedures as specified in the City of High Point Purchasing Policies and Procedures Manual to handle and resolve disputes relating to its procurements and shall in all instances disclose information regarding protests to the appropriate grantor agency (i.e., FTA/NCDOT) and keep said grantor agency informed about the status of the protest. All protest decisions must be in writing. A protester must exhaust all administrative remedies with the Agency before pursuing a protest with the FTA and/or the State government.

Reviews of protests by the State-funding agency/FTA will be limited to:

- (1) The Agency's failure to have or follow its protest procedures, or its failure to review a complaint or protest;
- (2) Violations of Federal/State law or regulation.

An appeal to the State must be received by the State-funding agency within three (3) working days of the date the protester learned or should have learned of an adverse decision by the grantee or other basis of appeal to the State. An appeal to FTA must be received by the cognizant FTA regional or Headquarters Office within five (5) working days of the date the protester learned or should have learned of an adverse decision by the grantee or other basis of appeal to FTA. FTA (as provided in the Common Grant Rule for governmental recipients; see FTA Circular 4220.1F, chapter VII) will limit its review of third party contract protests as follows:

- (a) The Recipient's Procedural Failures. FTA will consider a protest if the recipient:
 - 1 Does not have protests procedures, or
 - 2 Has not complied with its protest procedures, or
 - 3 Has not reviewed the protest when presented an opportunity to do so.
- (b) Violations of Federal law or Regulations. FTA will not consider every appeal filed by a protestor of an FTA recipient's protest decision merely because a Federal law or regulation may be involved. Instead, FTA will exercise discretionary jurisdiction over those appeals involving issues important to FTA's overall public transportation program. FTA will refer violations of Federal law for which it does not have primary jurisdiction to the Federal authority having proper jurisdiction.
- (c) Violations of State or Local Law or Regulations. FTA will refer violations of State or local law to the State or local authority having proper jurisdiction.

Violations of Federal law or regulation will be handled by the complaint process stated within that law or regulation. Violations of State or local law or regulations will be under the jurisdiction of State or local authorities. The Agency will abide by the Protest and Dispute Resolution Procedures provided in the City of High Point Purchasing Policies and Procedures Manual, inclusive of the following:

Authority. City of High Point has final authority to resolve protests, disputes, and complaints arising from the solicitation, award, or performance of a contract. In all instances where a legal representative of the bidder, vendor, or contractor has initiated correspondence or formal action, the City Manager shall contact State-awarding agency (i.e., NCDOT or other agency, as applicable) prior to taking any action. Solicitation documents must contain provisions for the resolution of protests and disputes.

Protest of Requirements Prior to Award. The solicitation document shall provide potential bidders with the opportunity to take exception to specifications and/or requirements. Protests of requirements

received after the time identified in the solicitation document shall be considered untimely and shall be rejected.

Protest of Award. If, prior to award of contract, a protest is received in writing and filed on the grounds that the award is not in conformance with the provisions of the solicitation document, the contract or award shall not be awarded until the protest has been withdrawn or a decision has been reached by the Agency. Complaints lodged by a bidder prior to award may be resolved informally. However, in the event that the matter is not resolved, bidders shall be advised of the timeframe for submitting a full and complete formal statement of the grounds for the protest within the timeframes specified in the solicitation document.

Decisions. The City Manager shall review the merits and timeliness of the protest and ensure that a decision in writing is submitted within a reasonable period of time following receipt of the protest. The Agency shall issue a decision in writing or otherwise furnish to the bidder the decision in such a manner as to ensure receipt. The decision of the City Manager is final.

Disputes Subsequent to Award. Disputes subsequent to award may include, but not be limited to, contention over terms, pricing, payment, scope and/or deliverables. A dispute resolution and escalation clause, describing resolution procedures and the appropriate parties to which the matter may be escalated, shall be included in solicitation documents and contracts, as applicable. The following are sample clauses for inclusion in solicitation documents and contracts:

- Disputes. Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the City Manager. This decision shall be final and conclusive unless within ten (10) days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the authorized representative of the Agency. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the authorized representative of the Agency shall be binding upon the Contractor and the Contractor shall abide by the decision.
- Performance During Dispute. Unless otherwise directed by the Agency, Contractor shall continue performance under this Contract while matters in dispute are being resolved.

Standards of Conduct.

The City of High Point Transit System shall utilize the City of High Point's written code of standards of conduct (or conflict of interest policy) governing the performance of their employees engaged in the award and administration of contracts. All City of High Point Transit System employees, officers, and governing board members will review this policy annually and the agency will document the review thereof. These standards will be relayed to all members in writing and the City of High Point Transit System will obtain each member's signature to acknowledge his/her review, understanding, and acceptance of the policy.

Competition.

All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition.

Unreasonable requirements will not be placed on firms in order for them to qualify to do business.

The Agency will be alert to organizational conflicts of interest. An organizational conflict of interest means that because of other activities, relationships, or contracts, a contractor is unable or potentially unable, to render impartial assistance or advice to the grantee; a contractor's objectivity in performing the contract work is or might be otherwise impaired; or a contractor has an unfair competitive advantage.

The Agency will be alert to noncompetitive practices, such as noncompetitive pricing practices, among contractors that may restrict or eliminate competition.

Unnecessary experience and excessive bonding requirements will not be placed on firms.

Contractors that develop or draft specifications, requirements, statements of work, invitations for bids and/or requests for proposals or those on retainer contracts will be excluded from competing for such procurements.

Except in cases where a product of a specified brand name is the only product that can properly meet the needs of a requester, the drafting or application of specifications or bid requirements that directly or indirectly limit the bidding to a single brand is prohibited. A *“brand name or equal”* is a competitive process that allows bidders to propose equivalent items. The Agency will not specify only a “brand name” product instead of allowing “an equal” product to be offered without listing its salient characteristics. Refer to FTA’s “Best Practices Procurement Manual,” (BPPM) contains additional information on preparation of specifications including examples with specific language.

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

All lists of pre-qualified persons, firms, or products that are used in acquiring goods and services are current and include enough qualified sources to ensure maximum full and open competition. Also, the Agency will not preclude potential bidders from qualifying during the solicitation period, which is from the issuance of the solicitation to its closing date. Additionally, to the maximum extent possible, every effort shall be made to use Disadvantaged Business Enterprises and Minority-/Women-Owned Businesses in acquiring goods and services.

Revenue contracts (as applicable) will be awarded utilizing competitive selection procedures and principles. Revenue contracts are those third party contracts whose primary purpose is to either generate revenues in connection with a transit related activity, or to create business opportunities utilizing an asset funded with public transportation funds. The Agency will be responsible for

determining what level of competition is appropriate for a particular contract. A competitive selection process would normally only be needed where there are several potential competitors for a limited opportunity—a competitive process would be required to allow all interested parties an equal chance.

For all architectural, engineering, design, or related services the Agency must use qualifications-based competitive proposal [Request for Qualifications (RFQ) in accordance with the Brooks Act] procedures. If the estimated fee is less than \$30,000, the state's mini-Brooks Act may be used. Qualifications-based competitive proposal procedures can only be used for procurement of program management, construction management, feasibility studies, preliminary engineering, design, architectural, engineering, surveying, mapping, and related services.

(1) The Agency must follow applicable statutes, N.C.G.S. 143-64.31-34 and FTA requirements set forth in 4220.1F, to retain a qualified registered architect or professional engineer.

- 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.
- Good faith effort to use minority-owned and historically underutilized businesses.
- Selection shall be based on qualifications and competence.
- Price is excluded as an evaluation factor; price negotiation will only be conducted once the most qualified offeror has been determined.
- NCDOT Public Transportation Division (PTD) must review and approve selection (projects funded with NCDOT public transportation funds).

(2) Exemption from request for qualifications (RFQ) and formal procedures for securing A&E Services, N.C.G.S. 143-64.32(a).

- If design fee is estimated less than \$30,000, procedures listed at item (1) above may be waived.
- The exemption must be in writing and granted by the Agency's governing board.
- A&E firms may be contacted directly.
 - Two or more may be evaluated for qualifications
 - Negotiated contract
 - NCDOT Public Transportation Division (PTD) involvement in selection and negotiation required (projects funded with NCDOT public transportation funds).

The Agency will ensure that:

A review of proposed procurements is accomplished in order to avoid the purchase of unnecessary or duplicative items. Consideration will be given to consolidating or breaking out procurements to obtain a more economical purchase. However, procurements will not be divided in an effort to evade competition.

Available state and local intergovernmental agreements for procurement or use of common goods and services are utilized whenever possible, as applicable. When obtaining goods or services in this manner, the City of High Point Transit System will review the documents in advance using the attached Contract Clause Matrix for inclusion of all federal requirements, required clauses, and certifications [with emphasis on **Buy America** provisions especially for steel and manufactured products (see 49 CFR 661) and rolling stock (see 49 CFR 663)] that must be properly followed and included, whether in the master intergovernmental contract or in the grantee's purchase document. Noncompliance with regards to the section can result in a determination of “non-participation” by FTA in the Agency’s procurements. The vehicle contracts awarded by PTD for the purchase of transit vehicles already include all federal requirements.

Efforts are made to jointly procure goods and services with other grantees, whenever feasible and practical. When obtaining goods or services in this manner, the City of High Point Transit System will review the documents in advance for inclusion of all federal requirements, required clauses, and certifications (especially Buy America provisions) that must be properly followed and included in the resulting joint solicitation and contract documents.

Piggybacking is the post-award use of a contractual document/process that allows a unit of government who was not contemplated in the original procurement to purchase the same supplies/equipment through that original document/process. **At this time, the piggybacking option is only available when state funds are used to purchase the item. The FTA piggybacking option is currently under review by PTD and FTA.**

In lieu of purchasing new equipment and property, the utilization of Federal/State excess and surplus property will be considered, whenever such use is feasible and reduces project costs.

Value engineering clauses are included in contracts for construction projects, as appropriate.

Analysis is made of lease versus purchase alternatives and/or any other appropriate analysis to determine the most economical and practical procurement.

The type of procurement instruments used (e.g. fixed price contracts, cost reimbursable contracts, purchase orders, and incentive contracts) shall be appropriate for the particular procurement.

Prior to utilizing any electronic (E-Commerce) methods for soliciting offers, ordering products, or transferring funds, the Agency must have written procedures and must ensure the requirements for full and open competition are met. E-Commerce activity is best defined as the processing of business transactions over the Web. This includes use of an electronic procurement system (such as the state uses) and a broad range of other options such as ordering supplies over the Internet, using the Internet to publicize requests for bids and accept bids online, and using electronic banking.

Contracts are made only with responsible contractors who possess potential ability to perform successfully under terms and conditions of the contract. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. Contracts will not be awarded to parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs or activities in accordance with the Federal debarment and suspension rule, 49 CFR 29. This now applies to procurements over \$25,000. Grantees are required to comply, and assure the compliance of each third party contractor and sub-recipient at any tier, with the debarment and suspension rule. FTA and NCDOT recommend that grantees use a certification form for projects over \$25,000, which are funded in part with Federal funds. Grantees can obtain a sample certification form from PTD. Grantees must also check a potential contractor's debarment/suspension status at the following Web site: <http://www.sam.gov>.

Some form of cost or price analysis is made and documented in the procurement files in connection with every procurement action, including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the Agency must make *independent estimates* before receiving bids or proposals.

- (1) Cost Analysis. A cost analysis must be performed when the offeror is required to submit the elements (i.e., labor hours, overhead, materials, etc.) of the estimated cost, (e.g., under professional, consulting, and architectural and engineering services contracts, etc.).

A cost analysis will be necessary when adequate price competition is lacking and for sole source procurements, including contract modifications or change orders, unless price reasonableness can be established on the basis of a catalog or market price of a commercial product sold in substantial quantities to the general public or on the basis of prices set by law or regulation.

- (2) Price Analysis. A price analysis may be used in all other instances to determine the reasonableness of the proposed contract price.
- (3) Profit. The Agency 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.
- (4) Federal Cost Principles. Costs or prices based on estimated costs for contracts under grants will be allowable only to the extent that costs incurred or cost estimates included in negotiated prices are consistent with Federal cost principles. This applies to State-funded projects as well.
- (5) Cost Plus Percentage of Cost Prohibited. The cost plus a percentage of cost and percentage of construction cost methods of contracting will not be used.

The City of High Point Transit System will maintain records that detail the history of each procurement. At a minimum, these records must include:

- The rationale for the method of procurement;
- Selection of contract type;
- Reasons for contractor selection or rejection; and
- The basis for the contract price.

The section on Methods of Procurement includes the documentation requirements for each threshold funding level.

Procurement documents and records are retained for at least three (3) years after project completion and are available to Federal and State awarding agencies, on request.

A system for contract administration is maintained to ensure contractor conformance with the terms, conditions and specifications of contracts or purchase orders and to ensure adequate and timely follow-up of all purchases. Consideration will be given to the type of contract and the specific requirements of each. As a general guide, the following will be monitored and documented:

- (1) Contractor conformance with the contract price.
- (2) Contractor conformance with the delivery and/or completion dates.
- (3) Compliance with the specifications of product or construction requirements.
- (4) Payment of any required security or performance deposits by the contractor.
- (5) Compliance with rules and regulations for contracts of the funding source.
- (6) Document whether contractors have met the terms, conditions and specifications of the contract.

Solicitations for goods and services provide for all of the following:

- (1) Clear and accurate description of the technical requirements of the item/service being procured.
 - Description must not contain features that unduly restrict competition.
 - Description, whenever practicable, will be in the form of technical requirements in terms of functions to be performed or performance required, including the range of acceptable characteristics or minimum acceptable standards.
 - Detailed product specifications should be avoided if at all possible.
 - A “brand name or approved equal” description may be used as a means to define the performance or other salient characteristics of a procurement.

- Statement affirming that there will be no arbitrary action in the procurement process, but all actions will be taken based on necessity, reason, or principle.
- (2) Requirements that bidders must fulfill and all other factors to be used in evaluating bids or proposals.
 - (3) Acceptance of products and services dimensioned in the metric system of measurement, to the extent practicable and economically feasible.
 - (4) Preference for products and services that conserve natural resources, protect the environment, and are energy efficient, to the extent practicable and economically feasible.
 - (5) Positive efforts are made to utilize Minority-owned Businesses.
 - When only state funds are used, the solicitation must include Minority Business Enterprise (MBE) firms and/or Women Business Enterprise (WBE) firms.
 - MBE and WBE project specific goals may be set for some procurements.
 - If the project is funded in part with federal funds, Disadvantaged Business Enterprise (DBE) firms must be solicited.
 - Ensure DBEs are used to the fullest extent practicable.
 - Make information on forthcoming opportunities available to encourage and facilitate participation by DBEs
 - Consider in contract process whether firms competing for larger contracts intend to subcontract with DBEs.
 - Encourage contracting with consortiums of DBEs when contract is too large for individual DBE.
 - Use services/assistance of such organizations as Small Business Administration, local chamber of commerce, etc., in solicitation and utilization of DBEs.
 - Document efforts and actions taken to utilize DBEs.

Time and material type contracts are used only:

- (1) After a determination that no other type of contract is suitable; and
- (2) If the contract specifies a ceiling price that the contractor shall not exceed except at its own risk.

Methods of Procurement

The procurement method to use will be determined by the estimated cost of the product/service being procured. The following funding threshold levels are based on Federal, State, and local laws and regulations and consistent with the City of High Point Purchasing Policies and Procedures Manual.

< \$10,000 (*Micro-Purchases*)

- May be made without obtaining price quotes
- Local procurement guidelines must be followed
- Equitable distribution among qualified suppliers
- No splitting of procurements to avoid competition
- Davis-Bacon Act applies to construction \geq \$2,000 (**if funded in part with federal funds**)
- Purchases must be approved by the Transit Division Manager. The approval authority (see Section 1) must ensure required procurement procedures were followed, funds are available, and that the procurement history file has been properly documented.
- Minimum documentation required:
 - How price was determined to be fair and reasonable (comparison of catalog/online prices, etc.) and which vendor was selected
 - Procurement History Form may be used to document
 - Independent Cost Estimate (for purchases $>$ \$9,999.00
 - Vendor does not have to comply with Federal requirements for purchases $<$ \$10,000, except if Federal funds are used for construction. The Davis-Bacon Act applies to costs of \$2,000 or more and requirement must be included with solicitation.
 - Document approval by authorized person before purchase

INFORMAL BIDS

\$10,000 - \$29,999 (Price Quotes)

The City of High Point Transit System will follow the City of High Point's informal bidding procedures which are coordinated through the Purchasing Division.

- Solicit at least 3 bidders
- If Federal funds are used, applicable Federal requirements must be included in the solicitation
- Purchases must be recommended by the Transit Manager and Transportation Director and approved by the Purchasing Manager. The approval authority (see Section 1) must ensure required procurement procedures were followed, funds are available, and that the procurement history file has been properly documented.
- Minimum documentation required:
 - Document quotes received (a minimum of 3 quotes must be received)
 - Minority firms must be solicited and documented
 - Document which vendor was selected--if vendor with lowest price is not selected, include basis/reason for selection (delivery date; better warranty/service; etc.)
 - Document approval by authorized person before purchase
 - Procurement History Form may be used to document

\$30,000 - \$89,999 (*Informal Bids*)

The City of High Point Transit System will follow the City of High Point's informal bidding procedures which are coordinated through and by the Purchasing Division.

- Solicit written quotes from at least 3 bidders or suppliers.
- Applicable Federal requirements and certifications must be included with solicitation (if funded in part with Federal funds)
- Purchases must be recommended by the Transit Manager and Transportation Director and approved by the Purchasing Manager and the Financial Services Director. The approval authority (see Section 1) must ensure required procurement procedures were followed, funds are available, and that the procurement history file has been properly documented.
- Minimum documentation required:
 - Minority-owned Business good faith efforts must be documented. Project specific goals may set for certain projects.
 - Document quotes solicited and quotes received (minimum of 2 quotes must be received)
 - Document which vendor was selected--if vendor with lowest price is not selected, include basis/reason for selection -- (delivery date; better warranty/service; etc.) and justification
 - Procurement History Form may be used to document/track but must maintain written documentation to support that each requirement was met
 - Document approval by authorized person before purchase/award

Formal (Sealed) Bids

The City of High Point Transit System will follow the City of High Point's formal bidding procedures which are conducted within the Purchasing Division.

The formal (sealed) bidding process must be used when:

Funding source is:	& Procurement is for:	Projected & Cost is:
State/Local Funds <u>ONLY</u> :	Equipment, Supplies, or Services	≥ \$ 90,000
	Construction	≥ \$500,000
Federal <u>AND</u> State/Local Funds:	Equipment, Supplies, or Services	≥ \$ 90,000
	Construction	≥ \$100,000

- Contracts for rolling stock procurements greater than \$100,000, other than obtained through PTB, (with City of High Point Transit System acting as a direct recipient of and utilizing 5307 Urban Formula Funds), will include provisions for compliance with applicable requirements of 49 U.S.C. Section 5323(m) and those provisions of FTA regulations, "Pre-Award and Post-Delivery Audits of Rolling Stock Purchases," 49 CFR Part 663, that do not conflict with 49 U.S.C. Section 5323(m).
- Publish advertisement (electronic ad may be used) for the bid, at least once, 7 days prior to opening
- All bids must be sealed and opened at stated time & place
- At least 3 suppliers/contractors must be solicited (in addition to general advertisement, at least 3 must be notified)
- Applicable Federal requirements and certifications must be included with solicitation (if funded in part with Federal funds)

- Additional requirements for construction procurements:
Minimum of 3 sealed bids must be received if the construction project is the formal range of \$500,000 or above. If less than 3 bids are received, agency must advertise for bids again; and if as a result of such second advertisement, less than 3 competitive bids are received from reputable and qualified contractors, the agency may let contract to the lowest responsible bidder. (If only one bid is received, the procurement must be treated as 'sole source', requiring adherence to all the requirements thereof). Construction projects in the informal range of \$30,000 to \$499,999 only requires 1 bid.
 - Bid guarantee bond (5% of bid price)
 - Performance and payment bonds (100% of contract price)
 - MBE/WBE/DBE participation (project specific goal assigned if necessary).
 - Required steps must be taken to satisfy MBE requirements in accordance with (G.S. 143-128.2(f)) if local and/or state funds are used
 - Required steps must be taken to satisfy DBE requirements in accordance with 49 CFR Part 26 and the City of High Point's Disadvantaged Business Enterprise Program if federal funds are used
 - Veterans' Employment preference certification
- Document advertisement for bids and document the number of bids solicited and number of bids received by completing Procurement History Form and Procurement Checklist for Formal Bids.
- Purchases must be approved by City Council. The approval authority (see Section 1) must ensure required procurement procedures were followed, funds are available, and that the procurement history file has been properly documented.
- Any or all bids may be rejected if there is a sound documented business reason
- Contract award will be made in writing to the lowest responsive and responsible bidder
 - If a grantee announces contract awards with respect to any procurement for goods and services (including construction services) having an aggregate value of \$500,000 or more (**in federal funds**), the grantee shall::
 - Specify the amount of Federal funds that will be used to finance the acquisition; and
 - Express the said amount as a percentage of the total costs of the planned acquisition.
- Discussions with one or more bidders after bids have been submitted are expected to be unnecessary as award of the contract will be made based on price and price factors alone. Pre-bid conferences with prospective bidders may be useful before bids have been received.
- Bid responsiveness involves the question of whether the bid, as submitted, represents an unequivocal offer to do exactly what the Agency has specified, so that acceptance of the bid will bind the contractor to meet the Agency's requirements in all material aspects. Any and all bids judged to be non-responsive must be rejected. Examples of bids typically considered non-responsive include:
 - The bid fails to conform to material requirements;
 - The bid does not conform to applicable specifications (unless the invitation allowed alternates);
 - The bid fails to conform to delivery schedule or permissible alternates;
 - The bid imposes conditions that would modify the requirements of the invitation or limit the bidder's liability to the entity;
 - There is a condition of the bid which affects the substance of the bid (i.e., affects price,

- quantity, quality, or delivery of the items offered) or works an injustice on other bidders;
 - The bid contains prices for line items that are materially unbalanced, i.e., figures in the bid conflict with the total bid price;
 - The bidder fails to furnish a bid guaranty in accordance with the requirements of the invitation; or
 - Failure to submit Buy America Certification (if required) or Transit Vehicle Manufacturer Certification with all rolling stock procurements.
 - When there are lower bids than the bid being accepted for award, the award decision document must give the reasons for rejecting the lower bids. When there are equal low bids, the documentation must describe how the tie was broken.
- When specified in bidding documents, factors such as discounts, transportation costs, and life cycle costs will be considered in determining which bid is lowest
 - Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken
 - Minimum documentation required:
 - Written documentation to support that each requirement was met
 - Minority-owned Business good faith efforts must be recorded
 - Solicit minority participation in contracts for the erection, construction, alteration or repair of any building
 - A project specific goal for minority-owned businesses may be assigned or justification why no goal was assigned
 - Documented efforts must be reported to State Construction
 - Document approval by authorized person before purchase/award

Competitive Proposal/Request for Proposal (RFP)

The competitive proposal/request for proposal method of procurement is normally conducted with more than one source submitting an offer, i.e., proposal. Either a fixed price or cost reimbursement type contract is awarded. This method of procurement is generally used when conditions are not appropriate for the use of sealed bids. Note that certain restrictions apply under North Carolina law for use of the RFP method and these restrictions and exceptions are discussed in sections 3.5.1 and 3.5.2 below.

A request for proposals (RFP) typically includes all of the elements of an invitation for bids (IFB). The required feature that principally distinguishes the RFP from an IFB is the listing of evaluation factors. These evaluation factors typically include:

- Responsibility factors such as financial, human, and physical capacity to perform; and
- Technical factors such as the degree to which the proposer is expected (based on information submitted and available) to achieve the performance objectives, to provide the quality expected, and on the relative qualifications of the proposer's personnel.

Many RFPs go beyond listing these factors in order of importance, and also describe the evaluation process in detail—listing weights for each factor, illustrating the scoring method, and specifying the procedure for weighing price into the selection.

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

- Offerors can more accurately respond to your needs rather than solely rely on the technical specifications alone;
- Proposers will be able to clearly present the information you need to conduct your evaluation; and
- The appearance of favoritism or unethical practice in offeror selection will be diminished.

The competitive proposal process involves a subjective evaluation process and discussions that are typically confidential. RFPs are typically publicized in newspapers and/or trade journals, and are issued to qualified mailing lists maintained in a manner similar to IFB lists.

Competitive Proposal/Request for Proposal (RFP) Method **may not** be used in lieu of an IFB for:

- Construction/repair work; or
- Purchase of apparatus, supplies, materials or equipment. (See 3.5.2 regarding information technology goods as services)

Competitive Proposal/Request for Proposal (RFP) Method of solicitation may be used (in addition to or instead of any other procedure available under North Carolina law) for the procurement of **information technology goods and services** [as defined in N.C.G.S. 147-33.81(2)]. This applies to electronic data processing goods and services, telecommunications goods and services, security goods and services, microprocessors, software, information processing, office systems, any services related to the foregoing, and consulting or other services for design or redesign of information technology supporting business processes. The following minimum requirements [G.S. 143-129.8] apply:

- Notice of the request for proposals shall be given in accordance with G.S. 143-129 (b).
- Contracts shall be awarded to the person or entity that submits the best overall proposal as determined by the awarding authority. Factors to be considered in awarding contracts shall be identified in the request for proposals.
- The awarding authority may use procurement methods set forth in G.S. 143-135.9 in developing and evaluating requests for proposals.
- The awarding authority may negotiate with any proposer in order to obtain a final contract that best meets the needs of the awarding authority.

- Any negotiations shall not alter the contract beyond the scope of the original request for proposals in a manner that:
 - Deprives the proposers or potential proposers of a fair opportunity to compete for the contract; and
 - Would have resulted in the award of the contract to a different person or entity if the alterations had been included in the request for proposals.
- Proposals submitted shall not be subject to public inspection until a contract is awarded.
- The award must be approved by City Council. The approval authority (see Section 1) must ensure required procurement procedures were followed, funds are available, and that the procurement history file has been properly documented.

Competitive Proposal/Request for Proposal (RFP) Method, in accordance with FTA C 4220.1F, under the guidelines of *FTA Best Practices Procurement Manual*, should be used for procurements of **professional services**, such as consultants for planning activities and for transit system operations/management. **Note that certain restrictions apply under North Carolina law for use of the RFP method and these restrictions and exceptions are discussed in sections 3.5.1 and 3.5.2. For all architectural, engineering, design, or related services, the qualifications-based competitive proposal process must be used—see 3.6 below.**

When the RFP method is used for procurement of **professional services**, the following minimum requirements apply:

- Normally conducted with more than one source submitting an offer (proposal);
- Either fixed price or cost reimbursement type contract will be used;
- Generally used when conditions are not appropriate for use of sealed bids;
- Requests for proposals will be publicized;
- All evaluation factors will be identified along with their relative importance;
- Proposals will be solicited from an adequate number (3 is recommended) of qualified sources;
- A standard method must be in place for conducting technical evaluations of the proposals received and for selecting awardees;
- Awards will be made to the responsible firm whose proposal is most advantageous to the grantee's program with price and other factors considered;
- In determining which proposal is most advantageous, grantees may award to the proposer whose proposal offers the greatest business value (best value) to the agency. “Best value” is based on determination of which proposal offers the best tradeoff between price and performance, where quality is considered an integral performance factor;

- Awards must be approved by City Council. The approval authority (see Section 1) must ensure required procurement procedures were followed, funds are available, and that the procurement history file has been properly documented.

Procurement of Architectural and Engineering Services (A&E)

For all architectural, engineering, design, or related services the Agency must use qualifications-based competitive proposal [Request for Qualifications (RFQ) in accordance with the Brooks Act] procedures unless the fee is expected to be less than \$30,000.

The Agency shall follow applicable statutes, N.C.G.S. 143-64.31-34 and FTA requirements set forth in 4220.1F, to retain a qualified, registered architect or professional engineer.

Qualifications-based competitive proposal procedures require that:

- An offeror's qualifications be evaluated;
- Good faith effort to use minority-owned businesses;
- Price be excluded as an evaluation factor;
- Negotiations be conducted with only the most qualified offeror; and
- Failing agreement on price, negotiations with the next most qualified offeror be conducted until a contract award can be made to the most qualified offeror whose price is fair and reasonable to the grantee.
- Geographic location may be a selection criterion in procurements for 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.
- Qualifications-based competitive proposal procedures can only be used for procurement of the following services:
 - Program management
 - Construction management
 - Feasibility studies
 - Preliminary engineering, design, architectural, engineering, surveying, mapping, and related services
- If Federal funds are used, applicable Federal requirements and certifications must be included in the solicitation
- Awards must be approved by City Council. The approval authority (see Section 1) must ensure required procurement procedures were followed, funds are available, and that the procurement history file has been properly documented.
- Written documentation must be maintained to support each step of the procurement process

Exemption from RFQ and formal procedures for securing A & E Services, N.C.G.S. 143-64.32.

- If design fee is estimated to be less than \$30,000, the procedures listed above may be waived.
- Exemption must be granted by the Agency's governing board.
- A & E firms may be contacted directly.
 - One or more may be evaluated for qualifications
 - Negotiated contract
- Written documentation must be maintained to support each step of the selection process.

Procurement by Noncompetitive Proposal (Sole Source)

The noncompetitive proposal method is defined in the City of High Point Purchasing Policies and Procedures as:

- Solicitation of a proposal from only one source; or
- After solicitation of a number of sources, competition is determined to be inadequate; or
- A contract change outside the scope of original contract is also considered a sole source procurement.

Procurement by noncompetitive proposal may be used under the following circumstances:

- If the award of a contract is infeasible under competitive procedures;
- Item is only available from a single source;
- Emergency situation will not permit a delay in the purchase of item;
- Solicitation provides only one bid, and competition is determined to be inadequate;
- Item is an associated capital maintenance item and is purchased directly from original manufacturer:
 - The manufacturer or supplier is the only source for item
 - The price is no higher than usual price paid
- A cost analysis is required
- Establish a fair and reasonable profit margin
- If federal funds are used, applicable Federal requirements and certifications must be submitted to the vendor

- Sole source requires local governing board approval
- Written documentation must be maintained to support each step of the procurement process

Contract Provisions

All contracts shall include provisions to define a sound and complete agreement. The City of High Point Transit System will utilize the City of High Point Standard Form of Agreement and Contract as approved for use by the City Attorney and in practice at the time of award and fixation of executing signatures.

In addition, contracts and subcontracts shall contain contractual provisions or conditions that allow for the following:

Administrative, contractual, or legal remedies

In instances where contractors violate or breach contract terms, including sanctions and penalties as may be appropriate. (All contracts in excess of \$2,500.)

Termination for cause and for convenience

By the grantee including the manner by which it will be effected and the basis for settlement. (All contracts in excess of \$10,000.)

Statutory and Regulatory Requirements.

A current but not all-inclusive and comprehensive list of statutory and regulatory requirements applicable to grantee procurements (such as Davis-Bacon Act, Disadvantaged Business Enterprise, Clean Air, and Buy America) is contained in the FTA Master Agreement (available on the FTA Web site). The Agency is responsible for evaluating these requirements for relevance and applicability to each procurement. For example, procurements involving the purchase of iron, steel and manufactured goods will be subject to the “Buy America” requirements in 49 C.F.R. Part 661, which involve the purchase of more than \$100,000 of iron, steel, manufactured goods, or rolling stock to be delivered to the recipient to be used in an FTA assisted project.. Further guidance concerning these requirements and suggested wording for contract clauses may be found in *FTA's Best Practices Procurement Manual*, <https://www.transit.dot.gov/funding/procurement/third-party-procurement/best-practices-procurement-manual> Matrices of Federal clauses required in all contracts funded in part with FTA funds can be found in Exhibit 7.13 of this document.

PTD maintains and updates the Federal requirements and clauses on an annual basis for various types of procurements, which are available upon request.

Payment Provisions in Third-Party Contracts.

Advance Payments.

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

Progress Payments.

Grantees may use progress payments provided the following requirements are followed:

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

Liquidated Damages Provisions.

A grantee may use liquidated damages if it may reasonably expect to suffer damages and the extent or amount of such damages would be difficult or impossible to determine.

The assessment for damages shall be at a specific rate per day for each day of overrun in contract time; and the rate must be specified in the third party contract. Any liquidated damages recovered shall be credited to the project account involved unless the FTA permits otherwise.

Contract Term Limitation.

Recipients of Federal and State public transportation funds are not allowed to enter into any contract for rolling stock or replacement parts with a period of performance exceeding five (5) years inclusive of options. All other types of contracts (supply, service, leases of real property, revenue and construction, etc.) should be based on sound business judgment. The establishment of contract terms and the extension of contract terms will be based on the minimum time necessary to accomplish the purpose of the contract. Additional factors to be considered include competition, pricing, fairness and public perception. Once a contract has been awarded, an extension of the contract term length that amounts to an out of scope change will require a sole source justification.

Tag-ons.

"Tag-ons" is a term describing the adding on to the contracted quantities (base and option) as originally advertised, competed, and awarded, whether for the use of the buyer or for others and then treating the add-on portion as though it met the requirements of competition. Tag-ons are **not permitted**.

Piggybacking.

Piggybacking is defined as an assignment of existing contract rights to purchase supplies and equipment. Any contract for the procurement of multiple units, in which the number of units might vary per the contract, there must be a minimum number of units (more than a nominal quantity) to be ordered, as well as a maximum number of units listed within the contract. The quantities in the contract must be justifiable, and must represent reasonably foreseeable needs. However, in the event there is an inadvertently acquired

contract in excess of needs, the purchase rights may be assigned to other recipients if the original contract contains an assignability provision that permits the assignment under the terms originally advertised, competed, evaluated and awarded. The recipient using assigned contract rights is responsible for ensuring compliance with FTA regulations. As an alternative to assigned contract rights, it is encouraged to consider, instead, joint procurements or intergovernmental procurements.

Note: At this time, piggybacking is only available when state/local funds are used to purchase the item. The FTA piggybacking option is currently under review by PTD and FTA.

NCDOT Public Transportation Division Oversight Policy

As the State's designated agency for administering and disbursing Federal and State public transportation funds, PTD must ensure that its grantees comply with Federal and State procurement requirements. PTD notifies its grantees of Federal and State regulatory and statutory requirements, standards, policies, and procedures. Grant agreements between NCDOT and its grantees outline these basic requirements. Additionally, PTD provides technical assistance, written guidance and other resources to assist grantees in developing local procedures to comply with these requirements.

Grantee Self-Certification.

Direct recipients of FTA funding assistance must "self-certify" their compliance with Federal procurement requirements as part of the Annual Certification/Assurance Process. FTA monitors compliance with FTA C 4220.1F as part of its routine oversight responsibilities.

Community Transportation Program (Federal Section 5311) applicants (sub-recipients of FTA funds), in the annual certification and assurances, must certify that their procurements and procurement systems will comply with all applicable requirements imposed by Federal laws, executive orders, or regulations and the requirements of FTA C 4220.1F, and other implementing requirements FTA may issue.

PTD Oversight.

Although FTA monitors compliance of direct recipients of FTA funding assistance, PTD has oversight responsibilities for Federal Section 5311 sub-recipients, regardless of whether the sub-recipient is also a direct recipient of FTA funding. Additionally, PTD must monitor grantees' compliance for all projects funded with State funds only. The requirements for PTD review and pre-award approval identified throughout this publication apply to all Federal Section 5311 projects and to all projects funded with State funds only, regardless of whether the grantee is also a direct recipient of FTA funding.

Review of Third-Party Contracts

In accordance with the grant agreement with NCDOT, unless otherwise authorized in writing by the Department, the grantee is prohibited from obligating itself in any manner with any third party with respect to its rights and responsibilities under the grant agreement without prior written concurrence of the Department. The grantee may not assign any portion of the work to be performed under the grant agreement without prior written concurrence of the Department. PTD requires its grantees to obtain approval from PTD prior to entering into contracts with third party contractors for the operation, administration, or management of a local public transportation program funded by PTD and prior to entering into lease agreements for the

lease of public transportation funded assets. PTD will review other third party contracts at the request of the grantee and the grantee must make their procurement documents available for FTA and/or NCDOT review and require the same of their third-party contractors.

Review and Pre-award Approval¹

As part of its oversight responsibilities, PTD has established the following requirements:

- (1) PTD must review new/adapted specifications prior to solicitation of equipment, supplies, apparatuses or new-type rolling stock. This requirement does not apply to the following:
 - Equipment, supplies, or apparatuses < \$30,000
 - Minivans
 - Conversion and Lift Vans
 - Center Aisle Vans and Standard Vans
 - Light Transit Vehicles (Cutaway-type Bus)
- (2) PTD must review drawings, designs, and/or description of work required prior to solicitation of construction, renovation, facility improvement projects, or bus shelters.
- (3) PTD requires pre-award approval of the following:
 - All new-type rolling stock (see exceptions above).
 - All construction projects \geq \$. \$30,000
 - Any “brand name” product or sole source purchase \geq \$2,500.
 - Any contract to other than apparent lowest bidder \geq \$2,500.
 - Any procurement \geq \$90,000 (formal bids).
 - Any contract modification that would change the scope of a contract or increase the contract amount up to or over the formal (sealed) bid threshold of \$90,000.

Procurement System Reviews

PTD will review grantees’ compliance with Federal and State requirements during its triennial financial management review process and may recommend “best practices” in order to assist grantees in improving their procurement practices. Deficiencies will be documented, corrective actions will be monitored, and technical assistance will be provided to assist grantees in becoming compliant with all Federal and State requirements. Additionally, PTD provides procurement training and technical assistance at public transportation conferences, workshops, and during site visits.

Remedies for Noncompliance

Failure to comply with Federal/State procurement requirements, whether stated in a Federal/State statute or regulation, an assurance, in a State plan, or elsewhere, may result in PTD (or other State-funding agency) taking one or more of the following actions:

- Temporarily withhold payments pending correction of the deficiency;
- Disallow all or part of the cost of the activity not in compliance;
- Wholly or partly suspend or terminate the current award;

¹ This applies to all Section 5311 projects and all State funded projects.

- Withhold further awards for the program; or
- Take other remedies that may be legally available.

Exhibits and Transit System Specific Forms

Exhibit 6.1



INDEPENDENT COST ESTIMATE FORM

☐ NEW CONTRACT/PROCUREMENT

EXPIRING CONTRACT TO BE MODIFIED	Contract #
	PO#

CONTRACT MODIFICATION	Contract #
	PO#

DATE : _____

REQUESTOR : _____

ESTIMATE \$ _____ (include shipping and handling)

Please substantiate the estimate by providing a complete estimate using the information below.

Estimate Type	Items to Include	Where to find supporting information
Goods/Equipment	<ol style="list-style-type: none">1. Product needed2. Quantity3. Unit price4. Markups – overheads – profit5. Delivery Schedule desired6. Warranty	<ol style="list-style-type: none">1. Vendor survey/Market survey2. Current or past contracts for the same or similar product3. Procurement and Contract Administration staff can assist you in obtaining historical price and costs data
Services (Other than A&E)	<ol style="list-style-type: none">1. The tasks you want done2. The types of people needed (i.e., supervisor, admin assistant other)3. The positions required (i.e., Project Manager, Deputy PM, Senior Engineer/Planner, other)4. The estimated hours by position5. The salary/billing rates applied6. Prevailing wage rate category applied7. The profit/applied fee8. Direct expenses9. Completion schedule	<ol style="list-style-type: none">1. Current or past contracts for similar services2. Other properties/departments doing similar work3. Project Control/Engineering or Contract Administration staff can assist you in obtaining historical price and cost data

Architect, Engineers, Designers	<ol style="list-style-type: none"> 1. The tasks you want done 2. The types of people needed (I.e., engineers, admin assistant, other) 3. The positions: Project Manager, Deputy PM, Senior Engineer/Planner, Other 4. The estimated hours by position 5. The salary/billing rates applied 6. The profit/applied fee 7. Overhead rate % 8. Direct expenses 9. Completion schedule 	<ol style="list-style-type: none"> 1. Current or past contracts for similar services 2. Other properties/departments doing similar work 3. Project Control/Engineering or Contract Administration staff can assist you in obtaining historical price and costs data
Construction	<ol style="list-style-type: none"> 1. Product needed 2. Labor (at a minimum use Davis Bacon) 3. Materials 4. Bonds 5. Insurance 6. Mobilization 7. Equipment 8. Mark ups; fringes, overheads, profit 9. Completion schedule 	<ol style="list-style-type: none"> 1. "Means Book" 2. "Blue Book" 3. Davis Bacon Wage Rates www.gpo.gov/davisbacon 4. Current or past contracts for the same project 5. Project Control/Engineering or Contract Administration staff can assist you in obtaining historical price and cost data

Goods/Equipment Cost Estimate Documentation

Project No.:		Item Name: Radiator Re-core Contract			Approved in Budget:					
Indicate below how cost estimate was determined or developed:										
<input type="checkbox"/> Compared to catalog or online price sold to the general public										
<input type="checkbox"/> Compared to competitive price (quotes) of same or similar item within past year										
<input checked="" type="checkbox"/> Compared to the pricing history of the same item from previous purchases										
Name of Employee										
Conducting Procurement:										
Employee's Job Title:					Vendor #1		Vendor #2		Vendor #3	
Date:5/21/2015										
Qty	Unit	Description (and/or attach specifications)	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension		
	set			\$0.00	\$0.00	\$0.00		\$0.00		
	ea			\$0.00		\$0.00		\$0.00		
	ea			\$0.00		\$0.00		\$0.00		
				\$0.00		\$0.00		\$0.00		
				\$0.00		\$0.00		\$0.00		
				\$0.00		\$0.00		\$0.00		
				\$0.00		\$0.00		\$0.00		
				\$0.00		\$0.00		\$0.00		
				\$0.00		\$0.00		\$0.00		
Total Amount of Quotation:				\$ 0.00		\$ 0.00		\$ 0.00		
Payment Terms: (Net 30; Net 20; Net 10):										
Delivery Terms: (Vendor Pays Freight/Agency Pays Freight):										
Delivery Date:										

6.3 Responsibility Determination Form

Bid/RFP No: _____

Supplier: _____

Date: _____

For each of the areas described below, check that the appropriate research has been accomplished and provide a short description of the research and the results.

	Acceptable	Comment
1. Appropriate financial, equipment, facility, and personnel	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____ _____ _____ _____
2. Ability to meet the delivery schedule	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____ _____ _____ _____
3. Satisfactory period of performance	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____ _____ _____ _____
4. Satisfactory record of integrity, not on debarred or suspended listings	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____ _____ _____ _____
5. Receipt of all necessary data from supplier	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____ _____ _____ _____

6.4 Fair and Reasonable Price Determination

FAIR AND REASONABLE PRICE DETERMINATION

I hereby determine the price to be fair and reasonable based on at least one of the following:

Check one or more:

- ☐ Found reasonable on recent purchase.
- ☐ Obtained from current price list.
- ☐ Obtained from current catalog.
- ☐ Commercial market sales price from advertisements.
- ☐ Similar in related industry.
- ☐ Personal knowledge of item procured.
- ☐ Regulated rate (utility).
- ☐ Other.

Comments:

☐ Copy of purchase order, quotes, catalog page, price list, etc. is attached.

Purchasing Manager

Date

6.5 SOW Template

Statement of Work Title: [Type text]
1.0 Project Background
<ul style="list-style-type: none">▪ Describe the need for the goods or services, the current environment, and the Transit Agency's key objective(s) as it relates to this requirement. Provide a brief description/summary of the goods or services sought.▪ Short statement of the problem to be resolved▪ Expected project duration▪ Transit Agency organizational units and/or key individuals involved in managing the project▪ Alternative solutions or implementation strategies evaluated
<p>a) Transit Agency requires these products and/or services due to:</p> <p>b) Transit Agency is attempting to complete a project on _____ and requires supplier/contractor assistance in the:</p> <p>c) The completion of this work will help Transit Agency:</p>
2.1 Results
Indicate the key end results that the project will achieve when successfully executed. Measurable performance indicators for anticipated benefits may also be listed here.
2.2 Anticipated Benefits
Describe what the organization will gain through completion of this project.
2.3 Business Processes Impacted

Review major changes in the way work will be conducted once the project is complete (if any).
2.4 Customers / End Users Impacted
Identify the specific individuals or groups whose work will be most affected during and after the project's execution.
3.0 Applicable Documents
List legal, regulatory, policy, security, and similar relevant documents. Include publication number, title, version, date and where the document can be obtained. If only certain portions of documents apply, state this. Indicate the definition of terms, if needed.
<p>List any publications, manuals, and regulations that the supplier / contractor must abide by:</p> <p>a) [Type text]</p> <p>b) [Type text]</p> <p>c) [Type text]</p> <p>Definitions and Acronyms:</p>
4.0 Summary of Requirements
<p>These are the key tasks expected of the supplier / contractor according to the Schedule and the Statement of Work.</p> <p>List the key technical and functional requirements for the project. Highlight up to 20 requirements that you consider to be essential to the ultimate success of the project. Include the expected outputs / outcomes and performance standards.</p>

Write tasks to be performed in a logical and sequential arrangement of work to the extent possible. Describe the tasks in terms of outcomes expected, such as response time, cleanliness level, equipment up-time and functionality. Use “work” words, such as:

1) Review...

2) Analyze...

3) Repair...

4) Install...

5) Construct...

All tasks should have quantifiable or observable results.

5.0 Schedule and Deliverables

List all outputs / outcomes and submittals with specific due dates or time frames. Include type, quantity and delivery point (s). Include the acceptance criteria for each.

Milestone or Major Project Deliverable	Planned Completion Date

6.0 Quality Assurance Plan

Explain what the Transit Agency’s quality expectations are, how (and how often) deliverables or services will be monitored and evaluated, and the process to follow when the outputs / outcomes are below performance standards.

The following levels of quality are to be judged acceptable under this contract:

a) All milestones or services will be achieved and all reports will be submitted on time in accordance with Section 5.0 of this SOW.

a) All milestones, services, products or reports will meet the outcomes noted in Section 4.0 of this document.

c) Supplier / Contractor work will be monitored by Transit Agency project and Contract Management Staff.

d) Specific quality requirements for this contract are as follows:

1) On time delivery= [Type text]

2) Acceptable quality = [Type text]

3) Responsiveness = [Type text]

4) Service Level = [Type text]

Cost Analysis Template

For Federally Funded Contracts

VENDOR/CONTRACTOR NAME

PROJECT / BID

DATE

CONTACT NAME & PHONE #

Components of Pricing to be Evaluated:

LABOR

	# Hours	X	Hourly Rate	=	Total Labor Cost	COMMENTS / DETAIL
Manual		X		=	\$0.00	
Clerical		X		=	\$0.00	
Technical		X		=	\$0.00	
Administrative		X		=	\$0.00	
Professional		X		=	\$0.00	
Licensed/Certified		X		=	\$0.00	
Other (Specify)		X		=	\$0.00	
Total Labor					\$0.00	

MATERIALS

	# Units	X	Price/Unit	=	Total Cost	COMMENTS / DETAIL
Raw Materials		X		=	\$0.00	
Raw Materials					\$0.00	
Purchased Product		X		=	\$0.00	
Purchased Product					\$0.00	
Contracted Services		X		=	\$0.00	
Contracted Services					\$0.00	
Other		X		=	\$0.00	
Other					\$0.00	
Total Materials					\$0.00	

OVERHEAD

	DESCRIPTION	Total Cost	COMMENTS / DETAIL
Insurance Work Comp		\$0.00	
Insurance Project Specific		\$0.00	
Insurance Prop. & Casualty		\$0.00	
Supervision		\$0.00	
Sales		\$0.00	
Facilities		\$0.00	
Delivery		\$0.00	
Travel		\$0.00	
Other		\$0.00	
Total Overhead		\$0.00	

PROFIT

		Total Cost	COMMENTS / DETAIL
Profit	<i>Please comment on factors such as</i>	\$0.00	
Profit	<i>risk, performance, investment and</i>	\$0.00	
Profit	<i>any other area that influences the</i>	\$0.00	
Total Profit	<i>profit associated with the bid.</i>	\$0.00	

TOTAL COST

\$0.00

ADDITIONAL COMMENTS:

PRICE ANALYSIS

PO / Contract: [Click here to enter text.](#)

The evidence compiled by a price analysis includes:

- Developing and examining data from multiple sources whenever possible that prove or strongly suggest the proposed price is fair.
- Determining when multiple data consistently indicate that a given price represents a good value for the money.
- Documenting data sufficiently to convince a third party that the analyst's conclusions are valid.

DATE: [Click here to enter a date.](#)

PREPARED BY: [Click here to enter text.](#)

The pricing quoted on the attached sheet(s) is deemed to be fair and reasonable based on the following type of analysis:

- ☐ Comparison with competing suppliers' prices or catalog pricing for the same item. (Complete comparison matrix and attach supporting quotes or catalog pages.)
- ☐ Comparison of proposed pricing with in-house estimate for the same item. (Attach signed in-house estimate and explain factors influencing any differences found. Complete summary matrix.)
- ☐ Comparison of proposed pricing with historical pricing from previous purchases of the same item, coupled with market data such as Producer Price Index or Inflation Rate over the corresponding time period. (Attach data and historical price record).
- ☐ Analysis of price components against current published standards, such as labor rates, dollars per pound etc. to justify the price reasonableness of the whole. (Attach analysis to support conclusions drawn.)

SUMMARY MATRIX

Item	Proposed Pricing	Average Market Price	Competitor A	Competitor B	In-House Estimate	Previous Pricing
Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.
Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.

Comments: [Click here to enter text.](#)

PROCUREMENT HISTORY FORM										
Project No.:		Project Period of Perform. ends:		Budget Object Code:		Item Name: Light Bulbs		Approved in Budget:		
If cost <\$500 indicate below how price was determined to be fair and reasonable: <input type="checkbox"/> Compared to catalog or online price sold to the general public <input type="checkbox"/> Compared to competitive price (quotes) of same or similar item within past year <input type="checkbox"/> Compared to the pricing history of the same item from previous purchases					If cost ≥ \$500 & < \$10,000 solicit at least 3 quotes (phone quotes acceptable) & document below: Number of Quotes Solicited: 5 Number of Quotes Received: 4 Note: If cost ≥ \$10,000 written quotes and other requirements apply—See Informal Bid Process If cost ≥ \$90,000 sealed bids and other requirements apply—See Formal (Sealed) Bid Process					
Name of Employee Conducting Procurement: Angela Wynes					Vendor #1 BulbDan.com		Vendor #2 Real Components		Vendor #3	
Employee's Job Title: Transit Manager					Quoted By: web site		Quoted By: Daryl Reinhold		Quoted By:	
Date:										
Qty	Unit	Description (and/or attach specifications)			Unit Price	Extension	Unit Price	Extension	Unit Price	Extension
0	ea	MH400/HBU/ED18			\$0.00	\$ 0.00	\$0.00	\$ 0.00		\$ 0.00
12	ea	M250/U/ET18			\$0.00	\$ 0.00	\$39.98	\$ 479.76		\$ 0.00
1	lt	SHIPPING			\$8.99	\$ 8.99	\$0.00	\$ 0.00		\$ 0.00
	ea					\$ 0.00		\$ 0.00		\$ 0.00
	ea					\$ 0.00		\$ 0.00		\$ 0.00
	ea					\$ 0.00		\$ 0.00		\$ 0.00
	ea					\$ 0.00		\$ 0.00		\$ 0.00
	ea					\$ 0.00		\$ 0.00		\$ 0.00
	ea					\$ 0.00		\$ 0.00		\$ 0.00
Total Amount of Quotation:						\$ 8.99		\$ 479.76		\$ 0.00
Payment Terms: (Net 30; Net 20; Net 10):										
Delivery Terms: (Vendor Pays Freight/Agency Pays Freight):										
Delivery Date:										
Awarded to: (note purchase order number, if applicable, under awarded vendor)					NO QUOTE <input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>	
<input type="checkbox"/> Check here if selection <u>not</u> based on lowest price and indicate other basis/reason for selection: <input type="checkbox"/> Delivery Charges <input type="checkbox"/> Delivery Date <input type="checkbox"/> Quality <input type="checkbox"/> Warranty/Service										
<input type="checkbox"/> Other (explain):										
Note: The RFQ (request for quotes) should state the selection criteria, i.e.: Qualified quotes will be evaluated & acceptance may be made of the lowest and best quote most advantageous to [Agency Name] as determined upon consideration of such factors as: prices offered; quality of items offered; general reputation & performance capabilities of offerors; substantial conformity with specifications/ other conditions set forth in quote; suitability of articles for the intended use; related services needed; date of delivery & performance; and such other factors deemed by [Agency Name] to be pertinent.										
Other Comments: Originally ordered bulbs from BulbDan.com; Received bulbs and were wrong ones. BulbDan.com unable to provide correct bulb as supplier has discontinued product.										
Attach specifications, written vendor quotes/brochures, purchase requisition/order, as applicable, and forward to approval official prior to purchase. If required, submit to NCDOT/PTD along with completed Procurement Checklist for pre-award approval. After purchase is complete, retain this form and all documentation for file.										
Approval	Approval Official (printed name and position title): Angela W Wynes Transit Manager									
	I hereby certify that this procurement was conducted following all applicable state, federal and local procedures and requirements. Documentation regarding this procurement is on file and will be retained up to five (5) years from the date of project closeout. Funds are available for this purchase and I am authorized to certify at this procurement level.						Signature:		Date Signed:	
	Date submitted to NCDOT/PTD for approval (if required):					Date approved by NCDOT/PTD (if required):				
Receipt	Date Goods/Services Received:		Accepted By:				Satisfactory Condition/Quality: Yes <input type="checkbox"/> No <input type="checkbox"/>			
	Contractor failed to meet contract terms (explain):									
	Would you use/recommend this contractor again? Yes <input type="checkbox"/> No <input type="checkbox"/> Check here if additional contract administration documentation is attached: <input checked="" type="checkbox"/>									

6.9 Procurement Decision Matrix

Micro-purchase

Amount ≤ \$10,000

Multiple Sources

Competitive Procurement

Amount > \$ 10,000

Multiple Sources

Not an Emergency

Small Purchase

Amount < \$100,000

Complete and Adequate

Specification or Description

Two or more quotes available

Sealed Bid (IFBs)

Complete and Adequate

Specification or Description

Two or more responsible bidders willing to compete

Selection can be made on the basis of price alone

Firm Fixed Price Contract

No discussion with bidders

required after receipt of bids

Competitive Proposals (RFPs)

Complete Specifications Not Feasible

Bidder Input Needed

Two or more responsible bidders willing to compete

Discussion needed with bidders after proposals

Fixed price can be set after discussions

Sole Source

Approved by FTA

OEM, Custom Item **OR**

Only One Source **OR**

Competition Inadequate after Solicitation **OR**

Emergency/Public Exigency

Type of Contract

Fixed price

Firm fixed unit prices

Cost plus fixed fee

Time and materials

Blanket purchase order

Indefinite Delivery Indefinite Quantity (IDIQ)

6.10 Change Order Review Checklist

Date	
Contract Number	
Contractor	
Contract Title	
Reviewer	
New Contract Total	
Change Order Number	
Dollar Value Increase	
Length of Time Extension Granted	
New Performance Period End Date	

Change Order Checklist	Category			Comment
	ND	D	N/A	
1. In-House Estimate Prepared				
2. Project Manager Approval				
3. AWO Scope Meeting Held				
3a. Scope of Change Adequate for Bidding				
4. Contractor Proposal Includes Impact Costs, Price				
5. Cost Analysis Conducted				
5a. If Price > 10% of ICE, Evidence of MTA President Approval				
6. Negotiation Memorandum				
7. Written Record of Change				
7a. Signed Change Order in File				
8. Evidence of Board Approval Prior Initiation of Changed Work				
9. Notice to Proceed in file				
10. Work Authorized within Contract Scope				
11. No Evidence of Arbitrary Action				
Other Comment				

6.11 Piggybacking Checklist

Definition: *Piggybacking is the post-award use of a contractual document/process that allows someone who was not contemplated in the original procurement to purchase the same supplies/equipment through that original document/process.* ("FTA Dear Colleague" letter, October 1, 1998).

In order to assist in the performance of your review, to determine if a situation exists where you may be able to participate in the piggybacking (assignment) of an existing agreement, the following considerations are provided. Ensure that your final file includes documentation substantiating your determination.

WORKSHEET	YES	NO
1. Have you obtained a copy of the contract and the solicitation document, including the specifications and any Buy America Pre-award or Post- Delivery audits?		
2. Does the solicitation and contract contain an express "assignability" clause that provides for the assignment of all or part of the specified deliverables?		
3. Did the Contractor submit the "certifications" required by Federal regulations? See BPPM Section 4.3.3.2.		
4. Does the contract contain the clauses required by Federal regulations? See BPPM Appendix A1.		
5. Were the piggybacking quantities included in the original solicitation; i.e., were they in the original bid and were they evaluated as part of the contract award decision?		
6. If this is an indefinite quantity contract, did the original solicitation and resultant contract contain both a minimum and maximum quantity, and did these represent the reasonably foreseeable needs of the parties to the contract?		
7. If this piggybacking action represents the exercise of an option in the contract, is the option provision still valid or has it expired?		
8. Does your State law allow for the procedures used by the original contracting agency: e.g., negotiations vs. sealed bids?		
9. Was a cost or price analysis performed by the original contracting agency documenting the reasonableness of the price? Obtain a copy for your files. Have you performed a market analysis of the prices to be paid and have you determined the price to be fair and reasonable and in the best interests of the Agency?		
10. If the contract is for rolling stock or replacement parts, does the contract term comply with the five-year term limit established by FTA? See FTA Circular 4220.1F, Chapter IV, 2 (14) (i).		
11. Was there a proper evaluation of the bids or proposals? Include a copy of the analysis in your files.		
12. If you will require changes to the vehicles (deliverables), are they "within the scope" of the contract or are they "cardinal changes"? See BPPM Section 9.2.1.		

Note: This worksheet is based upon the policies and guidance expressed in (a) the FTA Administrator's "Dear Colleague" letter of October 1, 1998, (b) the *Best Practices Procurement Manual*, Section 6.3.3—*Joint Procurements of Rolling Stock and "Piggybacking,"*

6.12 Contract Clause Matrix

APPLICABILITY OF THIRD PARTY CONTRACT PROVISIONS

(excluding micro-purchases, except Davis-Bacon requirements apply to contracts exceeding \$2,000)

PROVISION	Professional Services/A&E	Operations/ Management	Rolling Stock Purchases	Construction	Materials & Supplies
No Federal Government Obligations to Third Parties (by Use of a Disclaimer)	All	All	All	All	All
False Statements or Claims Civil and Criminal Fraud	All	All	All	All	All
Access to Third Party Contract Records	All	All	All	All	All
Changes to Federal Requirements	All	All	All	All	All
Termination	>\$10,000 if 49 CFR Part 18 applies.	>\$10,000 if 49 CFR Part 18 applies.	>\$10,000 if 49 CFR Part 18 applies.	>\$10,000 if 49 CFR Part 18 applies.	>\$10,000 if 49 CFR Part 18 applies.
Civil Rights (Title VI, EEO, ADA)	>\$10,000	>\$10,000	>\$10,000	>\$10,000	>\$10,000
Disadvantaged Business Enterprises (DBEs)	All	All	All	All	All
Incorporation of FTA Terms	All	All	All	All	All
Debarment and Suspension	>\$25,000	>\$25,000	>\$25,000	>\$25,000	>\$25,000
Buy America			>\$100,000	>\$100,000	>\$100,000
Resolution of Disputes, Breaches, or Other Litigation	>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000
Lobbying	>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000
Clean Air	>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000
Clean Water	>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000
Cargo Preference			For property transported by ocean vessel.	For property transported by ocean vessel.	For property transported by ocean vessel.
Fly America	For foreign air transport or travel.	For foreign air transport or travel.	For foreign air transport or travel.	For foreign air transport or travel.	For foreign air transport or travel.

PROVISION	Professional Services/A&E	Operations/ Management	Rolling Stock Purchases	Construction	Materials & Supplies
Davis-Bacon Act				>\$2,000 (including ferry vessels)	
Contract Work Hours and Safety Standards Act		>\$100,000 (except transportation services)	>\$100,000	>\$100,000 (including ferry vessels)	
Copeland Anti-Kickback Act Section 1 Section 2				All All exceeding \$2,000 (including ferry vessels)	
Bonding				\$100,000	
Seismic Safety	A&E for New Buildings & Additions			New Buildings	
Transit Employee Protective Arrangements		Transit Operations			
Charter Service Operations		All			
School Bus Operations		All			
Drug Use and Testing		Transit Operations			
Alcohol Misuse and Testing		Transit Operations			
Patent Rights	Research & Development				
Rights in Data and Copyright Requirements	Research & Development				
Energy Conservation	All	All	All	All	All
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
Conformance with ITS National Architecture	ITS Projects	ITS Projects	ITS Projects	ITS Projects	ITS Projects
ADA Access	A&E	All	All	All	All
Notification of Federal Participation for States	Limited to States	Limited to States	Limited to States	Limited to States	Limited to States