

Policy and Procedures

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**Section 002
Procurement**

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Section 002 - Procurement

SGRC Regional Transit Procurement Policy

SGRC Procurement Policy

**Procurement
Policy
&
Procedures**

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1. INTRODUCTION

1.1. Purpose

This policy establishes guidelines and minimum standards that Southern Georgia Regional Commission Transit (“the Agency”) will use in the management of its third-party contracts. This manual is intended to ensure that Southern Georgia Regional Commission Transit complies with Federal Transit Administration (FTA) and the Georgia Department of Transportation’s standards to ensure full and open competition and equitable treatment of all potential sources for all purchases made with funding derived from the Federal, state, and local governments. In all purchasing activity, the goal of Southern Georgia Regional Commission Transit is to ensure maximum open and free competition consistent with:

- 2 CFR § 200.318 – 200.327;
- FTA Circular 4220.1G "Third Party Contracting Guidance" or the latest version thereof

1.2. Applicability

This manual applies to all procurements undertaken and financed, in whole or in part, with FTA financial assistance provided to Southern Georgia Regional Commission Transit to support **open market procurements**. An open market solicitation is used to purchase a good or service by soliciting from any available source. Most grantee procurement activity will be undertaken on the open market. Open market procurements exclude:

- Employment Contracts;
- Real Estate Contracts; and
- Intergovernmental Agreements (IGAs)

The goal of this procurement policy is to provide an atmosphere in which all procurement transactions will be conducted in a manner providing full and open competition. Southern Georgia Regional Commission Transit will avoid the following situations considered to be restrictive of competition:

- Application of unreasonable requirements placed on firms in order for them to qualify to do business;
- Imposition of geographic preference standards in the selection of vendors;
- Imposition of unnecessary experience and excessive bonding requirements;
- Use of noncompetitive pricing practices between firms or between affiliated companies;
- Employment of noncompetitive awards to any person or firm on retainer contracts;
- Failure to recognize organizational conflicts of interest, which means that because of other activities, relationships, or contracts, a contractor is unable, or potentially unable, to render impartial assistance or advice to the Southern Georgia Regional Commission Transit; a contractor's objectivity in performing the contract work is or might be otherwise impaired; or a contractor has an unfair competitive advantage;
- Use of "brand name" specifications without listing its salient characteristics and not allowing "an equal" product to be offered; and

- Any arbitrary action in the procurement process.

Southern Georgia Regional Commission Transit will conduct procurements in a manner that does not give 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 pre-empt Georgia licensing laws from being considered in those disciplines that are regulated by the State of Georgia. Geographic location may be a selection criterion in procurements for architectural and engineering (A&E) services if an appropriate number of qualified firms, given the nature and size of the project, are able to compete for the contract.

1.3. Third-Party Contracting Capacity

Federal regulations (2 CFR § 200.318(a) and FTA guidance found in Circular 4220.1G, Chapter III, § 3a) require Southern Georgia Regional Commission Transit to have written procurement procedures. This policy is designed to meet FTA and GDOT's requirements in this regard.

1.4. Relationship to Other Agency Policies

The purpose of these purchasing policies and procedures is two-fold. First, the agency has established these policies and procedures to conform to the provisions of Federal procurement regulations that govern the agency's use of FTA and GDOT funds. Second, these policies and procedures assure that materials, supplies, services, and equipment required for the efficient and effective operation of the transit program are procured with regard to an analysis of price, quality, quantity, terms, and delivery specifications. These policies and procedures pertain only to the agency's purchases made with FTA funds for the transit program; purchases with local funds and for purposes other than transit should follow the applicable Georgia law.

These policies may not answer all questions related to purchasing; if any employee of Southern Georgia Regional Commission has a question regarding these procedures, GDOT should be contacted for clarification and guidance.

When Southern Georgia Regional Commission Transit undertakes any purchase utilizing FTA funds, this policy shall supersede any existing purchasing policy promulgated by the agency. When any conflict exists between this policy and the existing policies of the agency, the procedures in this policy shall prevail. If any employee of Southern Georgia Regional Commission Transit determines that a conflict exists between these policies and state and local law, Southern Georgia Regional Commission Transit shall contact GDOT and communicate the conflict.

2. CODE OF ETHICS AND CONFLICT OF INTEREST POLICY

2.1. Purpose

Federal grant management rules (2 CFR § 200.318(c)(1)) require each recipient to maintain written standards of conduct governing the performance of its employees engaged in the award and administration of contracts. This policy must address:

- Personal conflicts of interest
- Gifts; and
- Violations.

2.2. Definition of Key Terms

As used herein, the following definitions apply:

Conflict of Interest – A situation in which an employee, board member, officer, or agent has a private or personal interest sufficient to appear to influence the objective exercise of his or her official duties. A conflict of interest represents a divergence between a person covered by this policy and their private interests and their professional obligations to Southern Georgia Regional Commission Transit such that an independent observer might reasonably question whether the individual’s professional actions or decisions are determined by considerations of personal gain, financial or otherwise.

Financial Interest – An officer, agent, board member, his or her partner, employee, or their immediate family, is considered as having a financial interest in a company if: they receive more than \$10,000 in consulting income, salaries, or equity in the company; they have more than 5 percent equity in the company; they have intellectual property rights in or receive royalties from the company; or they serve as a director, officer, partner, trustee, manager or employee of the company.

Immediate Family – Immediate family includes an employee’s spouse, grandparent, parent, brother, sister, child or grandchild, and his or her partner.

2.3. Applicability

No employee, elected official, agent, or other individual under an employment contract with Southern Georgia Regional Commission Transit, or his or her immediate family member, partner, or organization that employs or is about to employ any of the foregoing may participate in the selection, award, or administration of a contract supported with FTA assistance if a conflict of interest, real or apparent, would be involved.

Such a conflict would arise when any of those previously listed individuals has a financial or other interest in the firm selected for the award.

2.4. Gifts

Any contractor, subcontractor, or supplier who has a contract with Southern Georgia Regional Commission Transit; has performed under such a contract within the past year; or anticipates bidding on such a contract in the future shall be prohibited from making gifts or providing favors to any individual defined in Section 2.2. who is charged with the duty of:

- Preparing plans, specifications, or estimates for public contracts; or
- Awarding or administering public contracts; or
- Inspecting or supervising construction.

Southern Georgia Regional Commission Transit also prohibits all covered individuals defined in Section 2.2. who perform the functions listed above from receiving or accepting any such gift or favor.

2.5. Employee Conflicts of Interest

2.5.1. Conflicts of Interest

It shall be a breach of ethical standards for any Southern Georgia Regional Commission Transit employee to participate directly or indirectly in a procurement when the employee knows:

- The employee or any member of the employee's immediate family, board member, officer, agent, his or her partner, has a financial interest pertaining to the procurement;
- A business or organization in which the employee, or any member of the employee's immediate family, has a financial interest pertaining to the procurement; or
- Any other person, business, or organization with whom the employee or any member of the employee's immediate family is negotiating or has an arrangement concerning prospective employment is involved in the procurement.

2.5.2. Discovery of Actual or Potential Conflict of Interest (Disqualification and Waiver)

Upon discovery of an actual or potential conflict of interest, an employee participating directly or indirectly in a procurement shall:

- Promptly file a written statement of disqualification with the Transportation Director; and
- Withdraw from further participation in the procurement.

The employee may, at the same time, request from the Transportation Director, an advisory opinion as to what further participation, if any, the employee may have in the procurement. It shall be at the sole discretion of the Transportation Director to determine if the employee may have any further participation in the procurement and, if so, the extent to which the employee may participate. Any employee who fails to comply with the provisions of this paragraph may be subject to disciplinary action.

2.5.3. Employee Disclosure Requirements

A Southern Georgia Regional Commission Transit employee, who has reason to believe that he/she or his/her immediate family have an interest that may be affected by his/her official acts or actions as a Southern Georgia Regional Commission Transit employee or by the official acts or actions of Southern Georgia Regional Commission Transit, shall disclose the precise nature and value of such interest in a written disclosure statement to the Transportation Director. The employee's disclosure statement will be reviewed by the Transportation Director and the Transportation Director will respond to the employee in writing with an opinion as to the propriety of said interest.

In the event that the Transportation Director has reason to believe that he/she or his/her immediate family has an interest that may be affected by his/her official acts or actions as a Southern Georgia Regional Commission Transit employee or by the official acts or actions of Southern Georgia Regional Commission Transit, he/she shall disclose the precise nature and value of such interest in a written disclosure statement.

2.5.4. Confidential Information

A Southern Georgia Regional Commission Transit employee may not directly or indirectly make use of, or permit others to make use of, for the purpose of furthering a private interest, confidential information acquired by virtue of their position or employment with Southern Georgia Regional Commission Transit.

2.5.5. Solicitation Provision

Southern Georgia Regional Commission Transit shall insert the following provisions in all formal competitive solicitation documents for products and services:

These policies shall apply to Southern Georgia Regional Commission Transit employees involved in procurement. It is a breach of ethical standards for any Southern Georgia Regional Commission Transit employee to participate directly or indirectly in a procurement when the employee knows:

- *The employee or any member of the employee's immediate family has a financial interest pertaining to the procurement;*
- *A business or organization in which the employee, or any member of the employee's immediate family, has a financial interest pertaining to the procurement; or*
- *Any other person, business, or organization with whom the employee or any member of the employee's immediate family is negotiating or has an arrangement concerning prospective employment is involved in the procurement.*

In addition, any persons acting as members of an evaluation committee for any procurement shall, for the purposes of the procurement, be bound by the conditions of this Section. Throughout the bid/proposal evaluation process and subsequent contract negotiations, offerors shall not discuss or seek specific information about this procurement, including but not limited to, the contents of submissions, the evaluation process, or the contract negotiations, with

members of any evaluation committee, governing board, or other Southern Georgia Regional Commission Transit employees other than the designated Transportation Director.”

2.6. Organizational Conflicts of Interest

The Transportation Director and technical personnel are encouraged to work closely with the legal counsel to review all situations that appear to have the potential for an organizational conflict of interest.

Organizational conflicts of interest may result in bias and potentially provide an unfair competitive advantage to a potential offeror. An organizational conflict of interest occurs due to the type of work to be performed under a third-party contract, or because of other activities or relationships such as:

- A contractor is unable, or potentially unable, to render impartial assistance or advice to the agency;
- A contractor’s objectivity in performing contract work is or might otherwise be impaired; or
- A contractor has an unfair competitive advantage.

Bias arises when a contractor is placed in a situation where there may be an incentive to distort advice or decisions. Whenever a contract is awarded that involves the rendering of advice, the question must always be asked as to whether the potential for a conflict of interest exists for the contractor rendering the advice. Southern Georgia Regional Commission Transit will utilize a "Conflict of Interest Disclosure Statement," in its solicitation when contracting for services of this nature.

3. Southern Georgia Regional Commission Transit RESPONSIBILITIES UNDER FEDERAL LAW

3.1. Third-Party Contracting Capacity

Southern Georgia Regional Commission Transit must maintain adequate technical capacity to carry out its FTA-assisted projects and comply with Federal rules. Southern Georgia Regional Commission Transit 's third-party contracting capability must be adequate to undertake its procurements effectively and efficiently in compliance with applicable Federal, state, and local requirements.

3.2. Contract Administration System

Southern Georgia Regional Commission Transit must maintain a contract administration system to ensure that it and its third-party contractors comply with the terms, conditions, and specifications of their contracts or purchase orders and applicable Federal, state, and local requirements. See Section 6 of this policy for a full discussion of contract administration.

3.2.1. Written Procurement Procedures

Southern Georgia Regional Commission Transit must maintain and follow written procurement procedures that address:

- (a) Solicitations – Requirements for Southern Georgia Regional Commission Transit solicitations are addressed in Section 5.
- (b) Necessity – Requirements related to Southern Georgia Regional Commission Transit 's need for products or services are addressed in Section 3.5.
- (c) Environmental and Energy Efficiency Preferences – Requirements related to preference for products and services that conserve natural resources, protect the environment, and are energy efficient are addressed in Sections 3.11.
- (d) Procurement Methods – Descriptions of the procurement methods that Southern Georgia Regional Commission Transit may use are included in Section 5.
- (e) Legal Restrictions – Descriptions of Federal and state restrictions on Southern Georgia Regional Commission Transit 's acquisitions are included in Section 5.

Third-Party Contract Provisions – Specific third-party contract provisions required for each contract and flow-down requirements to subcontracts must be included in all contracts. (Decide if you will add the list of required contract clauses; the full text of all required contract clauses, a clause matrix, or other way of listing the clauses; where you will place it in the document, and add a reference to that section here.)

- (1) Sources – Descriptions of the availability and use of various sources of products and services are addressed in Section 4.
- (2) Resolution of Third-Party Contracting Issues – Procedures related to the resolution of third-party contracting issues are included in Section 6.6.2.

3.2.2. Adequate Third-Party Contract Provisions

Southern Georgia Regional Commission Transit must include provisions in all of its third-party contracts that are adequate to form a sound and complete agreement.

3.2.3. Industry Contracts

Southern Georgia Regional Commission Transit shall not use an industry-developed contract or a contract that is provided by a bidder or offeror unless it has first evaluated the benefits of the contract. Southern Georgia Regional Commission Transit shall ensure that such contracts include all required Federal provisions but do not include terms and conditions that may be unfavorable to Southern Georgia Regional Commission Transit.

3.2.4. Revenue Contracts

Southern Georgia Regional Commission Transit may enter into a revenue contract with a third party to generate revenues in connection with a transit-related activity, or to create business opportunities utilizing an FTA-funded asset. Any such contract opportunity will follow competitive selection procedures and principles outlined herein.

3.2.5. Record Keeping

Southern Georgia Regional Commission Transit must prepare and maintain adequate and readily accessible project performance and financial records, covering procurement transactions as well as other aspects of project implementation. Southern Georgia Regional Commission Transit must maintain these records for five (5) years after Southern Georgia Regional Commission Transit and its lower-tier subrecipients, if any, have made final payment and all other pending matters are closed. Specific recordkeeping requirements include:

- (a) Written Record of Procurement History – Southern Georgia Regional Commission Transit must maintain and make available to GDOT and FTA written records detailing the history of each procurement. For all procurements above the micro-purchase level, Southern Georgia Regional Commission Transit must maintain records relating to:
 - (1) Procurement Method – Southern Georgia Regional Commission Transit must provide its rationale for the method of procurement it used for each contract, including a sole source justification for any acquisition that does not qualify as competitive;
 - (2) Contract Type – Southern Georgia Regional Commission Transit must state the reasons for selecting the contract type it used;
 - (3) Contractor Selection – Southern Georgia Regional Commission Transit must state its reasons for contractor selection or rejection;
 - (4) Contractor Responsibility – Southern Georgia Regional Commission Transit must provide a written determination of responsibility for the successful contractor;

- (5) Cost or Price – Southern Georgia Regional Commission Transit must evaluate and state its justification for the contract cost or price; and
 - (6) Reasonable Documentation – Southern Georgia Regional Commission Transit must retain documentation commensurate with the size and complexity of the procurement.
 - (7) Vendor Verification – Southern Georgia Regional Commission Transit must include verification of acceptance with a selected vendor/supplier/manufacturer through the Federal System of Award Management (SAM) for each project and associated project file.
- (b) Access to Records – Southern Georgia Regional Commission Transit must provide FTA and GDOT officials, the Comptroller General, or any of their representatives, access to and the right to examine and inspect all records, documents, and papers, including contracts, related to any FTA project financed with Federal assistance.
- (c) Use of Technology/Electronic Commerce – Southern Georgia Regional Commission Transit may use an electronic commerce system to conduct third-party procurements. If Southern Georgia Regional Commission Transit uses an electronic commerce system, then the following requirements apply:
- (1) Sufficient System Capacity – Southern Georgia Regional Commission Transit 's system must have sufficient system capacity necessary to accommodate all Federal requirements for full and open competition.
 - (2) Written Procedures – Before any solicitation takes place, Southern Georgia Regional Commission Transit must establish adequate written procedures to ensure that all information FTA/GDOT requires for project administration is entered into the system and can be made readily available to GDOT as needed.

3.3. Determination of Needs

Southern Georgia Regional Commission Transit must maintain and follow adequate procedures for determining the types and amounts of products and services it needs to acquire. Southern Georgia Regional Commission Transit shall comply with the following requirements when determining the types and amounts of products and services it needs to acquire:

3.4. Eligibility

All products and services to be acquired with FTA funds must be eligible under the Federal law authorizing the FTA assistance award and any regulations thereunder. All products and services to be acquired with FTA funds must also be eligible for support within the scope of the underlying grant or cooperative agreement from which the FTA assistance to be used is derived.

3.5. Necessity

Southern Georgia Regional Commission Transit shall adhere to the following standards for avoiding the purchase of duplicative and/or unnecessary products and services it does not need.

3.5.1. Unnecessary Reserves

Southern Georgia Regional Commission Transit shall limit the acquisition of Federally-assisted property and services to the amount it needs to support its operations.

3.5.2. Acquisition for Assignment Purposes

Southern Georgia Regional Commission Transit shall contract only for its current and reasonably expected public transportation needs and shall not add quantities or options to third-party contracts solely to permit assignment to another party at a later date. These limits on assignments, however, do not preclude joint procurements that are entered into simultaneously by two or more parties to obtain advantages unavailable for smaller procurements.

- (a) General Prohibition – Southern Georgia Regional Commission Transit may contract only for its current and reasonably expected public transportation needs and may not add quantities or options to third-party contracts solely to permit assignment to another party at a later date.
- (b) Changes in the Recipient’s Needs – GDOT and FTA recognize that the quantity of property or services a recipient reasonably believes it may need at the time of contract award may change. Southern Georgia Regional Commission Transit 's later needs might decrease due to changed circumstances or honest mistakes. In those situations, Southern Georgia Regional Commission Transit may assign its unneeded contract authority to another entity that would like to acquire the property or services.
- (c) Exceptions – These limits on assignments, however, do not preclude:
 - (1) Joint Procurements – Southern Georgia Regional Commission Transit and one or more other FTA recipients may enter into a single procurement at the same time to obtain advantages unavailable for smaller procurements.
 - (2) Participation in GDOT Sponsored Vehicle Procurements – Southern Georgia Regional Commission Transit may enter into contracts developed by the State of Georgia to acquire vehicles. See Section 4.3 of this policy for a full discussion of state government purchasing schedules and contracts.
- (d) Procurement Size – For every procurement, Southern Georgia Regional Commission Transit shall consider whether to consolidate or break out the procurement to obtain the most economical purchase. Absent efforts to foster greater opportunities for Disadvantaged Business Enterprises (DBEs), small and minority firms, and women’s business enterprises, Southern Georgia Regional Commission Transit shall not split a larger procurement merely to gain the advantage of micro-purchase or small purchase procedures.

- (e) Options – Southern Georgia Regional Commission Transit shall justify, as needed, all option quantities included in every solicitation and contract. An option is a unilateral right in a contract by which, for a specified time, Southern Georgia Regional Commission Transit may acquire additional equipment, supplies, or services than originally procured. An option may also extend the term of the contract. If Southern Georgia Regional Commission Transit elects to use options in a procurement, Southern Georgia Regional Commission Transit shall include option prices in the evaluation of bid prices or cost proposals. If Southern Georgia Regional Commission Transit fails to evaluate option prices in its award evaluation, and subsequently elects to exercise an option, it shall be treated as a sole source award.

- (f) Lease of Rolling Stock – For rolling stock and related equipment, the Fixing America’s Surface Transportation (FAST) Act removed the requirement to demonstrate the cost-effectiveness of leasing compared to purchasing described above in subsection (f). The FAST Act, however, now requires Southern Georgia Regional Commission Transit to submit a report to FTA within three years of executing a rolling stock lease that includes: (1) An evaluation of the overall costs and benefits of leasing rolling stock; and (2) A comparison of the expected short-term and long-term maintenance costs under a lease versus maintenance costs when buying rolling stock.

- (g) Specifications – Southern Georgia Regional Commission Transit 's procurement specifications shall clearly describe the products or services to be procured and shall state how the proposals will be evaluated. Southern Georgia Regional Commission Transit 's procurement specifications shall not be exclusionary, discriminatory, unreasonably restrictive, or otherwise in violation of Federal or Georgia laws or regulations.

3.6. Contractor Responsibilities

Southern Georgia Regional Commission Transit, in awarding contracts, financed in whole or in part, with FTA financial assistance, shall follow the guidance in this section to evaluate contractor capabilities to perform the contract.

In addition to the Federal rules (2 CFR § 200.318(h)) that require contract awards be made only to responsible contractors, Federal transit law at 49 U.S.C. § 5325(j) limits third-party contractor awards to those contractors capable of successfully performing under the terms and conditions of the proposed contract. Before selecting a contractor for an award, Southern Georgia Regional Commission Transit must consider such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

3.6.1. Debarment and Suspension

Debarment and suspension regulations and guidance include the following provisions.

3.6.1.1. DOT Debarment and Suspension Regulations

U.S. Department of Transportation (DOT) regulations, “Nonprocurement Suspension and Debarment,” 2 CFR Part 1200 apply to each third party contract at any tier of \$25,000 or more, to each third party contract at any tier for a federally required audit (irrespective of the contract amount), and to each third party contract at any tier that must be approved by an FTA official irrespective of the contract amount (2 CFR § 1200). Southern Georgia Regional Commission Transit shall apply DOT’s debarment and suspension requirements to itself and each third-party contractor at every tier to the extent required by DOT’s regulations that incorporate the requirements of Office of Management and Budget (OMB), “Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)” (2 CFR § 180).

3.6.1.2. System for Award Management

The System for Award Management (SAM) combines Federal procurement systems and will list any entity, or any of its principals, that are currently subject to an active exclusion meaning the entity is debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts using Federal Transit Administration funds.

As a best practice, Southern Georgia Regional Commission Transit should print the screen with the results of the SAM.gov search to include in the procurement file. Alternatively, Southern Georgia Regional Commission Transit may collect a debarment and suspension certification from the prospective third-party contractor or include a clause in the third-party contract requiring disclosure. FTA notes that affirmative actions, such as checking SAM.gov or including a requirement for a signed certification, are preferred. As such, it shall be the policy of Southern Georgia Regional Commission Transit to verify that the prospective third-party vendor is not listed as a debarred contractor on SAM.

3.6.2. Lobbying Certification and Disclosure

If a third-party contract will exceed \$100,000, before awarding the contract, Southern Georgia Regional Commission Transit will obtain a lobbying certification, and if applicable, a lobbying disclosure from a prospective third-party contractor (see DOT regulations, “New Restrictions on Lobbying,” 49 CFR Part 20, modified as necessary by 31 U.S.C. Section 1352).

3.6.3. Required Contract Clauses

In addition to the requirements outlined above, various requirements may apply to Southern Georgia Regional Commission Transit third-party contracts, depending upon the type of procurement and the anticipated dollar value of said contract. It is the responsibility of Southern Georgia Regional Commission Transit to assess each procurement and determine the applicable third-party terms and conditions that should be included in the solicitation and contract documents. Federal regulations at 2 CFR § 200, Appendix II and FTA Circular 4220.1G contain guidance on the applicability of these contract terms and conditions.

3.7. Bonding

Some procurements may require Southern Georgia Regional Commission Transit to require the vendor to submit a bid bond, performance bond, or payment bond (typically construction projects). When bonding is required, the following conditions will apply.

3.7.1. Thresholds

For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold, GDOT may accept the bonding policy and requirements of the agency provided that GDOT has made a determination that the Federal interest is adequately protected. If such a determination has not been made, the minimum requirements must be as follows:

3.7.1.1. Bid Guarantee

A bid guarantee from each bidder equivalent to five percent of the bid price. The “bid guarantee” must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.

3.7.1.2. Performance Bond

A performance bond on the part of the contractor for 100 percent of the contract price. A “performance bond” is one executed in connection with a contract to secure fulfillment of all the contractor’s obligations under such contract.

3.7.1.3. Payment Bond

A “payment bond” is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract. FTA has determined that payment bonds in the following amounts are adequate to protect Federal interest and will accept a local bonding policy that meets the following minimums:

- Less Than \$1 Million. Fifty percent of the contract price if the contract price is not more than \$1 million
- More Than \$1 Million but Less Than \$5 Million. Forty percent of the contract price if the contract price is more than \$1 million but not more than \$5 million
- More Than \$5 Million. Two and one-half million dollars if the contract price is more than \$5 million

3.7.2. Acceptable Sureties

Federal rules for non-governmental recipients require the non-governmental recipient to obtain construction bonds from companies holding certificates of authority as acceptable sureties under Department of the Treasury regulations, “Surety Companies Doing Business with the United States,” (31 CFR § 223). For a current list of approved sureties, see the Department of the Treasury’s Listing of

Approved Sureties (Department Circular 570). As FTA encourages governmental recipients to require similarly acceptable sureties, it shall be the policy of Southern Georgia Regional Commission Transit to such accept sureties.

3.7.3. Reduced Bonding

Southern Georgia Regional Commission Transit recognizes that bonding costs can be expensive. Southern Georgia Regional Commission Transit will accept a local bonding policy that conforms to the minimums described in Section 3.4.1. If bonding levels are sought at levels less than these amounts, Southern Georgia Regional Commission Transit must obtain the prior approval of GDOT/FTA. GDOT/FTA shall approve such requests only if it determines that Southern Georgia Regional Commission Transit's bonding policy adequately protects the Federal interest in the project.

3.7.4. Excessive Bonding

Southern Georgia Regional Commission Transit will adhere to FTA's rules on excessive bonding requirements (FTA Circular 4220.1G, Chapter IV, § 2h(1)(f)). However, if Southern Georgia Regional Commission Transit determines it has a material risk of loss because of a failure of the prospective contractor, bonding requirements may exceed those outlined in Section 3.7.1 only with the prior approval of GDOT/FTA.

3.8. Preference for U.S. Property—Build America, Buy America

Buy America regulations require that all iron, steel, and manufactured products used in an FTA-funded project be produced in the United States. Rolling stock is included in the category of manufactured products. Originally, the iron and steel requirements applied to all construction materials made primarily of iron or steel used in infrastructure projects.

On November 15, 2021, President Biden signed the Infrastructure Investment and Jobs Act (IIJA or the Bipartisan Infrastructure Law), Pub. L. No. 117-58, which includes the Build America, Buy America Act (BABA). Specifically, BABA expands the coverage of Buy America preferences to all manufacturing processes for construction materials used in federally assisted infrastructure projects.

Any other FTA-funded contract entered into by Southern Georgia Regional Commission Transit for any activity related to an infrastructure project with includes the construction, alteration, maintenance or repair of infrastructure such as the structures, facilities, and equipment for public transportation requires that all construction materials are manufactured in the U.S.

Construction materials include non-ferrous metals, plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables), glass (including optic glass), fiber optic cable (including drop cable), optical fiber, lumber, engineered wood, and drywall. Minor additions of articles, materials, supplies or binding agents to a construction material do not change the categorization of the construction material. Construction materials do not include cement and cementitious materials, aggregates such as stone, sand, or gravel, or aggregate binding agents or additives.

3.9. Accessibility

Facilities to be used in public transportation service must comply with 42 U.S.C. Sections 12101 *et seq.* and DOT regulations, “Transportation Services for Individuals with Disabilities (ADA),” 49 CFR § 37; and Joint ATBCB/DOT regulations, “Americans with Disabilities (ADA) Accessibility Specifications for Transportation Vehicles,” 36 CFR § 1192 and 49 CFR § 38. Notably, DOT incorporated by reference the ATBCB’s “Americans with Disabilities Act Accessibility Guidelines” (ADAAG), revised July 2004, which include accessibility guidelines for buildings and facilities, and are incorporated into Appendix A to 49 CFR Part 37. DOT also added specific provisions to Appendix A modifying the ADAAG, with the result that buildings and facilities must comply with both the ADAAG and amendments thereto in Appendix A to 49 CFR Part 37.

3.10. Contracting with Small and Minority Businesses, Women's Business Enterprises, and Labor Surplus Area Firms

Southern Georgia Regional Commission Transit must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. Affirmative steps must include:

- Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
- Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
- Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed above.

3.11. Solid Waste Disposal Act and Recovered Materials

Southern Georgia Regional Commission Transit shall comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 as amended, 42 U.S.C. 6962. The requirements of Section 6002 include procuring only items designated in the guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines. The agency should, to the greatest

extent practicable and consistent with law, purchase, acquire, or use products and services that can be reused, refurbished, or recycled; contain recycled content, are biobased, or are energy and water efficient; and are sustainable. This may include purchasing compostable items and other products and services that reduce the use of single-use plastic products.

4. SOURCES OF ACQUISITIONS

4.1. Force Account

Force account means the use of Southern Georgia Regional Commission Transit 's own labor forces and equipment to undertake a project (typically construction, renovation, or repair). The use of force account labor is a project management function, rather than a procurement and contract administration function, except in the general sense of the agency's ability to perform work with its own forces rather than contracting with another entity to acquire the property or services it needs, and the cost implications of the recipient's decision. Southern Georgia Regional Commission Transit does not charge force account labor to its FTA grants.

4.2. Joint Procurements

Southern Georgia Regional Commission Transit may participate in joint procurements whereby Southern Georgia Regional Commission Transit and one or more other entities agree from the outset to use a single solicitation document and enter into a single contract with a vendor for delivery of products or services. The following requirements apply to Southern Georgia Regional Commission Transit's participation in joint procurements:

- Solicitation documents may not be drafted to accommodate the needs of other parties that may later want to participate in the benefits of the contract.
- Southern Georgia Regional Commission Transit is responsible for ensuring that the joint procurement solicitation and contract comply with all Federal requirements and that the solicitation document and contract include all required clauses and certifications.

4.3. State or Local Government Purchasing Schedules or Purchasing Contracts

4.3.1. Definition

FTA uses the term "state or local government purchasing schedule" to mean an arrangement that a State or local government has established with several or many vendors in which those vendors agree to provide essentially an option to the State or local government, and its subordinate government entities, to acquire specific property or services in the future at established prices. These arrangements are somewhat similar to the General Services Administration's (GSA) Cooperative Purchasing Program available for Federal Government use.

4.3.2. Small Quantity Conditions for Rolling Stock

For Section 5339-funded procurements, Southern Georgia Regional Commission Transit will use the innovative procurement tools authorized under section 3019 of the FAST Act to the extent practicable. If Southern Georgia Regional Commission Transit conducts a stand-alone procurement (i.e., not part of a state contract or joint/cooperative procurement) for fewer than five buses, it must prepare a written justification for not using an authorized “innovative procurement tool” pursuant to 49 USC § 5339(a)(10)(B).

4.3.3. Applicability of Federal Provisions

When obtaining property or services in this manner, Southern Georgia Regional Commission Transit must ensure all Federal requirements, required clauses, and certifications (including Buy America) are properly followed and included, whether in the master intergovernmental contract or the recipient's purchase document. While GDOT takes all precautions to ensure that such provisions are in the original solicitation and contract documents, it is ultimately Southern Georgia Regional Commission Transit’s responsibility to ensure such documents and certifications are obtained.

If such requirements, clauses, and certifications were not included in the original purchase solicitation and contracts, Southern Georgia Regional Commission Transit may request the vendor to append the required Federal clauses in the purchase order or other document that effects the Southern Georgia Regional Commission Transit 's procurement. When this method is used, Southern Georgia Regional Commission Transit shall obtain Buy America certification before entering into the purchase order. This method cannot be used to circumvent FTA’s Buy America requirements.

4.3.4. Federal Supply Schedules

Purchases by Southern Georgia Regional Commission Transit from Federal Supply Schedules established by the U.S. General Services Administration (GSA) are limited to the purchase of information technology (IT) products and products and services to facilitate recovery from a major disaster. The following requirements apply to Southern Georgia Regional Commission Transit purchases from GSA schedules:

- Southern Georgia Regional Commission Transit is authorized to use GSA schedules for purchases of products and services to facilitate recovery from a major disaster that is declared by the President of the United States. Upon declaration of a major disaster by the President, Southern Georgia Regional Commission Transit may purchase products and services from GSA schedules both in advance and in the aftermath of the emergency event. Southern Georgia Regional Commission Transit shall be responsible for ensuring that the products and services acquired will only be used for recovery.
- Southern Georgia Regional Commission Transit must ensure that all Federal requirements, required clauses, and certifications are properly followed and included, whether in the master intergovernmental contract or Southern Georgia Regional Commission Transit 's purchase document.
- Southern Georgia Regional Commission Transit is required to evaluate the reasonableness of prices obtained from GSA schedules. GSA schedule pricing may not be used as a sole or single source for procurement. Southern Georgia Regional Commission Transit may only use GSA

schedule pricing as one of the multiple pricing sources solicited in accordance with its requirements for small purchases described in Section 5.

4.3.5. Existing Contracts

Southern Georgia Regional Commission Transit may use existing contract rights as an acquisition source. An “existing contract” means a contract that, when formed, was intended to be limited to the original parties thereto.

4.3.5.1. Permissible Actions

Within the conditions set forth below, Southern Georgia Regional Commission Transit may use existing contract rights held by another recipient of FTA assistance:

- (a) Exercise of Options – Southern Georgia Regional Commission Transit may use contract options held by another recipient of FTA assistance with the following limitations:
 - (1) Consistency with the Underlying Contract – Southern Georgia Regional Commission Transit must ensure that the terms and conditions of the option it seeks to exercise are substantially similar to the terms and conditions of the option as stated in the original contract at the time it was awarded.
 - (2) Price – Southern Georgia Regional Commission Transit may not exercise an option unless it has determined that the option price is better than prices available in the open market, or that when it intends to exercise the option, the option is more advantageous.
 - (3) Awards Treated as Sole Source Procurements – The following actions constitute sole source awards:
 - i. Failure to Evaluate Options Before Awarding the Underlying Contract – If a contract has one or more options and those options were not evaluated as part of the original contract award, exercising those options after contract award will result in a sole source award.
 - ii. Negotiating a Lower Option Price – Exercising an option after Southern Georgia Regional Commission Transit has negotiated a lower or higher price will also result in a sole source award unless that price can be reasonably determined from the terms of the original contract, or that price results from Federal actions that can be reliably measured.
- (b) Assignment of Contract Rights (“Piggybacking”) – If Southern Georgia Regional Commission Transit finds that it has inadvertently acquired contract rights in excess of its needs, it may assign those contract rights to another GDOT agency if the original contract contains an assignability provision that permits the assignment of all or a portion of the specified deliverables under the terms originally advertised, competed, evaluated, and awarded, or contains other appropriate assignment provisions.

Southern Georgia Regional Commission Transit may use contractual rights through assignment from another recipient of FTA assistance after first determining the contract price remains fair and reasonable, and the contract provisions are adequate for compliance with all Federal requirements. Southern Georgia Regional Commission Transit need not perform a second price analysis if a price analysis was performed for the original contract; however, Southern Georgia Regional Commission Transit must determine whether the contract price or prices originally established are still fair and reasonable before using those rights. Southern Georgia Regional Commission Transit shall be responsible for ensuring the contractor's compliance with FTA's Buy America requirements and execution of all the required pre-award and post-delivery Buy America review certifications. Before proceeding with the assignment, however, Southern Georgia Regional Commission Transit shall review the original contract to be sure that the quantities the assigning recipient acquired, coupled with the quantities that Southern Georgia Regional Commission Transit seeks, do not exceed the amounts available under the assigning recipient's contract.

4.3.5.2. Impermissible Actions

Southern Georgia Regional Commission Transit may not use Federal assistance to finance:

- (a) Improper Contract Expansion – A contract has been improperly expanded when it includes a larger scope, greater quantities, or options beyond the recipient's reasonably anticipated needs. A contract has also been improperly expanded when excess capacity has been added primarily to permit assignment of those contract rights to another entity.
- (b) Cardinal Changes – A significant change in contract work that causes a major deviation from the original purpose of the work or the intended method of achievement, or causes a revision of contract work so extensive, significant, or cumulative that, in effect, the contractor is required to perform very different work from that described in the original contract, is a cardinal change or "tag-on". A change within the scope of the contract is not a cardinal change or "tag-on".

4.4. The Open Market

Southern Georgia Regional Commission Transit will acquire most of the property and services it needs through procurements in the open market using procedures described in Section 5 of this Manual.

5. PROCEDURES FOR OPEN MARKET PROCUREMENTS

5.1. Solicitation of Competitive Price Quotes, Bids or Proposals

Compliance with the solicitation procedures described in Section 5.4 below will fulfill FTA requirements for “full and open competition.”

5.2. Receipt and Evaluation of Unsolicited Proposals

Southern Georgia Regional Commission Transit may enter into contracts based on an unsolicited proposal when authorized by applicable State law or regulation. Receipt of an unsolicited proposal does not, by itself, justify a contract award without providing for full and open competition. Unless the unsolicited proposal offers a proprietary concept that is essential to contract performance, Southern Georgia Regional Commission Transit must seek competition. To satisfy the requirement for full and open competition, Southern Georgia Regional Commission Transit must take the following actions before entering into a contract resulting from an unsolicited proposal:

- Publicize its receipt of the unsolicited proposal;
- Publicize an adequate description of the products or services offered without improperly disclosing proprietary information or disclosing the originality of thought or innovativeness of the products or services sought;
- Publicize its interest in acquiring the products or services described in the proposal;
- Provide an adequate opportunity for interested parties to comment or submit competing proposals; and
- Publicize its intention to award a contract based on the unsolicited proposal or another proposal submitted in response to the publication.

If it is impossible to describe the products or services offered without revealing proprietary information or disclosing the originality of thought or innovativeness of the products or services sought, Southern Georgia Regional Commission Transit may make a sole source award to the offeror. A sole source award may not be based solely on the unique capability of the offeror to provide the specific products or services proposed.

5.3. Prequalification

Southern Georgia Regional Commission Transit may prequalify bidders, offerors, and products for procurement purposes; however, Southern Georgia Regional Commission Transit is not required to do so. The decision of whether to require prequalification for eligibility to participate in procurement shall be made separately for every procurement and shall be approved by the Transportation Director.

If Southern Georgia Regional Commission Transit opts to prequalify bidders, offerors, and products for procurement purposes, the following conditions apply:

- Southern Georgia Regional Commission Transit must ensure that all prequalification lists it uses are current;
- Southern Georgia Regional Commission Transit must ensure that all prequalification lists it uses include enough qualified sources to provide maximum full and open competition; and
- Southern Georgia Regional Commission Transit must permit potential bidders or offerors to qualify during the solicitation period (from the issuance of the solicitation to its closing date). Southern Georgia Regional Commission Transit is not required to hold a particular solicitation open to accommodate a potential supplier that submits products for approval before or during that solicitation nor must Southern Georgia Regional Commission Transit expedite or shorten prequalification evaluations of bidders, offerors, or products presented for review during the solicitation period.

5.4. Solicitation Requirements and Restrictions

Every procurement solicitation that Southern Georgia Regional Commission Transit issues above the micro-purchase level (currently established in Federal guidance at \$10,000), must include the following information and be advertised in a manner that ensures adequate and open competition.

5.4.1. Description of the Property or Services

The solicitation and the contract awarded thereunder must include a clear and accurate description of Southern Georgia Regional Commission Transit's technical requirements for the products or services to be acquired in a manner that provides for full and open competition.

5.4.1.1. Descriptive Elements

Southern Georgia Regional Commission Transit will prepare descriptions of property, goods, or services in terms of functions to be performed or level of performance required, including the range of acceptable characteristics or minimum acceptable standards. Detailed product specifications should be avoided if at all possible; however, there is no prohibition against their use when appropriate.

5.4.1.2. Quantities

Additional quantities or options above Southern Georgia Regional Commission Transit's needs at the time of acquisition may not be added to contracts solely to allow the assignment of those quantities or options at a later date.

5.4.1.3. Brand Name or Equal

When it is impractical or uneconomical to provide a clear and accurate description of the technical requirements of the property to be acquired, a "brand name or equal" description may be used to define the performance or other salient characteristics of a specific type of property. The salient characteristics of the named brand that bidders or offerors must provide must be identified.

5.4.2. Prohibited Practices

Solicitations with requirements that contain features that unduly restrict competition may not be used. Southern Georgia Regional Commission Transit shall not:

- Impose unreasonable business requirements for bidders or offerors.
- Impose unnecessary experience requirements for bidders and offerors.
- Use prequalification procedures that conflict with the prequalification standards described in Section 5.3.
- Make a noncompetitive award to any person or firm on a retainer contract with Southern Georgia Regional Commission Transit if that award is not for the property or services specified for delivery under the retainer contract.
- Impose unreasonable restrictive bonding requirements on bidders and offerors in excess of FTA and state requirements.
- Specify only a “brand name” product without allowing offers of an “equal” product, or allowing an “equal” product without listing the salient characteristics that the “equal” product must meet to be acceptable for award.
- Specify in-state or local geographical preferences, aside from recognized exceptions. Federal regulations prohibit local geographic preferences, even if imposed by state or local laws. Federal regulations and guidelines will always supersede state and local laws when the two conflict. The following are federally allowable exceptions:
 - Use of labor for construction (4220.1g VI.2.e.(8)ii).
 - Selection criterion in the procurement of Architectural and Engineering (A&E) services if an appropriate number of qualified firms are eligible to compete for the contract in view of the nature and size of the project (4220.1g VI.2.e.(8)iii).
 - Selection criterion of labor for major disaster or emergency relief projects awarded under the Stafford Act (4220.1g VI.2.e.(8)v).
- Engage in practices that result in organizational conflicts of interest. An organizational conflict of interest occurs when any of the following circumstances arise:
 - Lack of Impartiality or Impaired Objectivity – When the bidder or offeror is unable, or potentially unable, to provide impartial and objective assistance or advice to Southern Georgia Regional Commission Transit due to other activities, relationships, contracts, or circumstances.
 - Unequal Access to Information – When the bidder or offeror has an unfair competitive advantage through obtaining access to nonpublic information during the performance of an earlier contract.
 - Biased Ground Rules – When during the conduct of an earlier procurement, the bidder or offeror has established the ground rules for a future procurement by developing specifications, evaluation factors, or similar documents.
- Support or acquiesce in noncompetitive pricing practices between firms or between affiliated companies.
- Take any arbitrary action in the procurement process.

5.4.3. Evaluation Factors

All solicitations issued by Southern Georgia Regional Commission Transit shall identify all factors to be used in evaluating bids or proposals. At the discretion of the Transportation Director, the relative order of importance and/or weights may be communicated to prospective offerors.

5.4.4. Permissible Contract Types

Southern Georgia Regional Commission Transit shall state the type of contract that will be awarded in all solicitation documents. The following types of contracts will typically be executed with the successful vendor:

5.4.4.1. Firm Fixed Price

A firm fixed price contract includes a price that remains fixed irrespective of the contractor's cost experience in performing the contract. A firm fixed price contract may include an economic price adjustment provision, incentives, or both.

5.4.4.2. Cost Reimbursement

A cost-reimbursement contract provides for payment of the contractor's allowable incurred costs, to the extent prescribed in the contract. Allowable costs may include incentives if the recipient believes they can prove helpful. Cost-reimbursement contracts are suitable for use only when uncertainties involved in contract performance do not permit costs to be estimated with sufficient accuracy to use any type of fixed-price contract.

5.4.5. Prohibitive or Restricted Contract Types

The following contract types are prohibited or restricted:

5.4.5.1. Cost Plus Percentage of Cost

Cost plus Percentage of Cost type contracts are prohibited.

5.4.5.2. Time and Materials

Time and Materials type contracts may be used only after a written determination is made that no other contract type is suitable. In addition, the contract between Southern Georgia Regional Commission Transit and the Contractor must specify a ceiling price that the Contractor may not exceed except at its own risk.

5.4.6. Other Federal Requirements Affecting the Property or Services to be Acquired

The solicitation and resulting contract must identify those Federal requirements that will affect contract scope and performance.

5.4.7. Other Federal Requirements Affecting the Bidder or Offeror and the Contractor

The solicitation and resulting contract must identify all Federal requirements that a bidder or offeror must fulfill before and during contract performance.

5.4.8. Reservation of Right to Award to Other Than the Low Bidder or Offeror

The solicitation must specifically reserve Southern Georgia Regional Commission Transit the right to award a contract to other than the low bidder or offeror. If the solicitation documents do not specify this right, Southern Georgia Regional Commission Transit will be obligated to award the contract to the low bidder.

5.4.9. Reservation of Right to Reject All Bids or Offers

The solicitation must specifically reserve Southern Georgia Regional Commission Transit 's right to reject all bids or offers.

5.5. Methods of Procurement

Southern Georgia Regional Commission Transit shall use competitive procedures appropriate for the acquisition undertaken. The procedures used must comply with Georgia and local law as well as with Federal requirements. Federal restrictions vary with the type of procurement method used. The following guidance is based on the requirements of 2 CFR § 200.318 – 200.327, supplemented by FTA policies that address the needs of FTA recipients.

5.5.1. Informal Procurements: Micro-Purchases

5.5.1.1. Definition

Micro-purchases are those purchases of products and services that cost \$15,000 or less, as defined by 2 CFR §200.67 (or current threshold established by Federal Acquisition Regulations (FAR)); for purposes of this policy, Southern Georgia Regional Commission Transit will use \$15,000 as the threshold for relatively simple purchases as a means to expedite the completion of its lowest-dollar small purchase transactions and minimize the associated administrative burden and cost.

5.5.1.2. Approval Authority

Micro-purchases must be approved in writing by one of the following Southern Georgia Regional Commission Transit employees:

- Transportation Director

5.5.1.3. Competition

Southern Georgia Regional Commission Transit may acquire products and services valued at less than \$15,000 without obtaining competitive quotations. Micro-purchases should be distributed equitably among qualified suppliers.

Micro-purchases are exempt from FTA's Buy America requirements. Davis-Bacon prevailing wage requirements, however, will apply to construction contracts exceeding \$2,000, even though the recipient uses micro-purchase procurement procedures.

5.5.1.4. Prohibited Divisions

The size or dollar value of procurements may not be divided or reduced merely to come within the micro-purchase limit. The only allowable exception to this restriction is for the express purpose of fostering greater participation of DBEs, small and minority firms, and women's business enterprises in Southern Georgia Regional Commission Transit's Federally-assisted procurements.

5.5.1.5. Documentation

Every micro-purchase must be accompanied by a written determination that the price is fair and reasonable and a description of how that determination was made.

5.5.2. Informal Procurements: Small Purchases

5.5.2.1. Definition

FTA defines small purchases are those purchases of products and services, including construction services, that cost greater than \$15,000 but not more than \$350,000. For purposes of this policy, Southern Georgia Regional Commission Transit will consider small purchases those that cost greater than (\$15,000) but not more than (\$350,000).

5.5.2.2. Approval Authority

Small purchases must be approved in writing by one of the following Southern Georgia Regional Commission Transit employees:

- Transportation Director

5.5.2.3. Required Competition

Price or rate quotations must be obtained from an adequate number of qualified sources (i.e., at least two). It is the responsibility of Southern Georgia Regional Commission Transit to ensure that an adequate number of quotations, bids, or proposals are received.

5.5.2.4. Prohibited Divisions

The size or dollar value of procurements may not be divided or reduced merely to come within the small purchase limit. The only allowable exception to this restriction is for the express purpose of fostering greater participation of DBEs, small and minority firms, and women's

business enterprises in Southern Georgia Regional Commission Transit 's Federally-assisted procurements

5.5.2.5. Documentation

Every small purchase must be documented in the grantee's written procurement history file. The level of documentation is stipulated in Section 3.2.5(a).

For small purchases, price quotations may be oral or written.

5.5.2.6. Special Considerations

Southern Georgia Regional Commission Transit may acquire products and services directly from State contract vendors in lieu of competitively procuring such products and services itself through the small purchase method of procurement.

Southern Georgia Regional Commission Transit reserves the right to use formal purchase methods, even if small purchase thresholds are met, if the Transportation Director believes it is in the best interests of the Southern Georgia Regional Commission Transit to do so.

5.5.3. Formal Procurements

5.5.3.1. Definition

Formal purchases are those purchases of products and services that cost greater than the current Federal threshold of \$350,000. For purposes of this policy, Southern Georgia Regional Commission Transit will use formal procedures for all purchases over (\$15,000).

5.5.3.2. Approval Authority

Large purchases must be approved in writing by the following Southern Georgia Regional Commission Transit employees or officials:

- Transportation Director

5.5.3.3. Formal Procurement Methods

There are two primary methods of procurement for large purchases of products and services:

- Sealed Bid method; and
- Competitive Proposal method.

5.5.3.4. Required Competition

Formal bids and competitive proposals must be publicly advertised.

For formal purchases by the sealed bid method of procurement, two or more responsible bidders must be willing and able to compete effectively for the business.

For formal purchases by the competitive proposal method of procurement, two or more offerors must be willing and able to submit an offer or proposal.

5.5.3.5. Required Documentation

Every formal purchase must, at a minimum, be supported by a written independent cost estimate, formal bids or proposals, a written cost or price analysis as appropriate, a written justification and detailed rationale for contractor selection (including application of evaluation criteria), and a written determination of the responsibility of the contractor. Additional documentation requirements are dependent upon the formal procurement method that is utilized to make the purchase.

5.5.3.6. Special Considerations

Southern Georgia Regional Commission Transit may acquire products and services via state contract in lieu of competitively procuring such products and services itself through the sealed bid and competitive proposal methods of procurement.

5.5.3.7. Procedural Methods for Sealed Bids

The sealed bid method of procurement is a formal method in which bids are publicly solicited and a firm fixed price contract is awarded to the responsible bidder whose bid, conforming to all the material terms and conditions of the Invitation for Bids (IFB), is lowest in price. The vehicle through which bids are solicited is an IFB. The IFB document contains technical specifications for the product or service to be purchased, a description of the procedures for submitting a bid, and the forms on which bids must be submitted.

- (a) When Appropriate – The sealed bid method of procurement is the preferred method for acquiring products and services that, including construction services, cost greater than \$15,000. The sealed bid method of procurement may also be used for small purchases if it is determined to be appropriate. The sealed bid method of procurement is appropriate if the following conditions apply:
- (1) Precise Specifications – A complete, adequate, precise, and realistic specification or purchase description is available.
 - (2) Adequate Sources – Two or more responsible bidders are willing and able to compete effectively for the business.
 - (3) Fixed Price Contract – The procurement generally lends itself to a firm fixed-price contract.
 - (4) Price Determinative – The successful bidder can be selected on the basis of price and those price-related factors listed in the solicitation including, but not limited to, transportation costs, life cycle costs, and discounts expected to be taken. Apart from responsibility determinations, contractor selection may not be

determined on the basis of other factors whose costs cannot be measured at the time of award.

- (5) Discussions Unnecessary – Discussions with one or more bidders after bids have been submitted are expected to be unnecessary as the award of the contract will be made based on price and price-related factors alone.

(b) Requirements for Sealed Bids – The following requirements apply to the sealed bid method of procurement:

- (1) Publicity – The Invitation for Bids must be publicly advertised.
 - i. The Transportation Director shall ensure that sufficient time is allowed to prepare bids before the date of bid opening.
 - ii. Notice of bidding opportunities may be provided in other ways in addition, but not as a substitute, to a published notice. The methods may include, but not necessarily be limited to:
 - a. Direct notice, based on compiled vendor lists or from pre-qualification lists, sent to prospective offerors; or
 - b. Use of advertisement by electronic means.
- (2) Adequate Sources – Bids must be solicited from an adequate number of known suppliers.
- (3) Adequate Specifications – The Invitation for Bids, including any specifications and pertinent attachments, must describe the property or services sought in sufficient detail that a prospective bidder will be able to submit a proper bid.
- (4) Sufficient Time – Bidders must be allowed sufficient time to prepare bids before the date of bid opening.
- (5) Public Opening – All bids must be publicly opened at the time and place prescribed in the Invitation for Bids.
- (6) Fixed Price Contract – A firm fixed price contract must be awarded in writing to the lowest responsive and responsible bidder unless the Invitation for Bids specifically allows for the award of a fixed price incentive contract or the inclusion of an economic price adjustment provision.
- (7) Rejection of Bids – Any or all bids may be rejected if there is a sound, documented business reason.

5.5.3.8. Competitive Proposals

The competitive proposal method of procurement is a formal method in which written proposals are publicly solicited and a contract is awarded to the responsible offeror whose proposal, taking into consideration price and other factors, is considered to be the most advantageous to Southern Georgia Regional Commission Transit or that is considered to be the “best value” to Southern Georgia Regional Commission Transit. The vehicle through which proposals are solicited is Request for Proposals (RFP). The RFP document contains technical specifications for the product or service to be purchased, a description of the procedures for submitting a proposal, criteria to be used in the Southern Georgia Regional Commission Transit’s evaluation of proposals, and the forms on which proposals must be submitted, if applicable.

(a) When Appropriate – The competitive proposal method of procurement is appropriate for the acquisition of products and services that cost greater than \$15,000 when the nature of the procurement does not lend itself to sealed bidding and Southern Georgia Regional Commission Transit expects that more than one source will be willing and able to submit a proposal. The competitive proposal method of procurement may also be used for small purchases if it is determined to be appropriate. The competitive proposal method of procurement may not be used for the procurement of construction services. The competitive proposal method of procurement is appropriate when any of the following circumstances are present:

- (1) Type of Specifications – The products or services to be acquired are described in a performance or functional specification, or if described in detailed technical specifications, other circumstances such as the need for discussions or the importance of basing contract award on factors other than price alone are present.
- (2) Uncertain Number of Sources – Uncertainty about whether more than one bid will be submitted in response to an Invitation for Bids.
- (3) Price Alone Not Determinative – Due to the nature of the procurement, contract award need not be based exclusively on price or price-related factors.
- (4) Discussions Expected – Separate discussions with individual offerors are expected to be necessary after they have submitted their proposals.

(b) Requirements for Competitive Proposals – The following requirements apply to the competitive proposal method of procurement:

- (1) Publicity – The Request for Proposals must be publicly advertised.
- (2) Evaluation Factors – All evaluation factors and their relative importance must be specified in the solicitation, but numerical or percentage ratings or weights need not be disclosed.
- (3) Adequate Sources – Proposals must be solicited from an adequate number of qualified sources.
- (4) Evaluation Method – A specific method must be established and used to conduct technical evaluations of the proposals received and to determine the most qualified offeror.
- (5) Price and Other Factors – An award must be made to the responsible offeror whose proposal is most advantageous to Southern Georgia Regional Commission Transit or that represents the “best value” to Southern Georgia Regional Commission Transit with price and other factors considered.
- (6) Best Value – Southern Georgia Regional Commission Transit may award a contract to the offeror whose proposal provides the greatest value to Southern Georgia Regional Commission Transit. To do so, the solicitation must inform potential offerors that the award will be made on a “best value” basis and identify what factors will form the basis for the award. Southern Georgia Regional Commission Transit must base its

determination of which proposal represents the “best value” on an analysis of the tradeoff of qualitative technical factors and price or cost factors.

5.5.3.9. Two-Step Procurements

Southern Georgia Regional Commission Transit may use two-step procurement procedures in both sealed bid and competitive proposal procurements, provided the opportunity for full and open competition is retained.

- (a) Review of Technical Qualifications and Approach – The first step is a review of the prospective contractors’ technical approach to Southern Georgia Regional Commission Transit’s request and their technical qualifications to carry out that approach followed by the establishment of a competitive range consisting of prospective contractors that demonstrate a technically satisfactory approach and have satisfactory qualifications.
- (b) Review of Bids and Proposals Submitted by Qualified Prospective Contractors – The second step consists of soliciting and reviewing complete bids or proposals, including price, submitted by each prospective contractor determined to be qualified. Absent exceptional circumstances, bids or proposals must be solicited from at least three qualified prospective contractors.

5.5.3.10. Architectural and Engineering (A&E) Services and Other Services

FTA’s enabling legislation at 49 U.S.C. § 5325(b)(1) requires the use of the qualifications-based procurement procedures contained in the “Brooks Act,” 40 U.S.C. § 1101 through 1104, to acquire A&E services.

- (a) Qualifications-Based Procurement Procedures Required – Southern Georgia Regional Commission Transit must use qualifications-based procurement procedures to acquire architectural and engineering (A&E) services as well as certain other services that are directly in support of, directly connected to, directly related to, or lead to construction, alteration, or repair of real property. In addition to A&E services, other services that must be procured by qualifications-based procurement procedures include:
 - Program management;
 - Construction management;
 - Feasibility studies;
 - Preliminary engineering;
 - Design, architectural, engineering;
 - Surveying, mapping; and
 - Other related services.

The nature of the work to be performed and its relationship to construction, not the nature of the prospective contractor, determine whether qualifications-based procurement procedures may be used.

- (b) Qualifications-Based Procurement Procedures Prohibited – Unless FTA determines otherwise in writing, qualifications-based procurement procedures may not be used to acquire other types of services if those services are not directly in support of, directly connected to, directly related to, or do not lead to construction, alteration, or repair of real property. Qualifications-based procurement procedures may not be used for actual construction, alteration, or repair of real property.

- (c) Qualifications-Based Procurement Procedures – The following procedures apply to qualifications-based procurements:
 - (1) Qualifications – Unlike other two-step procurement procedures in which price is an evaluation factor, an offeror’s qualifications are evaluated to determine contract award.
 - (2) Price – Price is excluded as an evaluation factor.
 - (3) Most Qualified – Price negotiations are first conducted with only the most qualified offeror.
 - (4) Next Most Qualified - Only after failing to agree on a fair and reasonable price may negotiations be conducted with the next most qualified offeror. Then, if necessary, negotiations with successive offerors in descending order may be conducted until contract award can be made to the offeror whose price the recipient believes is fair and reasonable.

5.6. Noncompetitive Procurements

Normally, Southern Georgia Regional Commission Transit must provide for full and open competition when soliciting bids or proposals. Federal regulations at 2 CFR § 200.320(c)(1) – (5), however, acknowledge that under certain circumstances, a recipient may conduct procurements without providing for full and open competition.

5.6.1. When Appropriate

Noncompetitive procurement procedures may only be used when the procurement is inappropriate for small purchase procedures, sealed bids, or competitive proposals, and at least one of the following circumstances are present:

5.6.1.1. Sole Source

When Southern Georgia Regional Commission Transit requires products or services available from only one responsible source, and no other products or services will satisfy its requirements, Southern Georgia Regional Commission Transit may make a sole source award. In addition, when Southern Georgia Regional Commission Transit requires an existing contractor to make a change to its contract that is beyond the scope of that contract, Southern Georgia Regional Commission Transit will consider the change a sole source award

that must be justified. Sole source awards are only appropriate when one of the following conditions apply:

- (a) **Unsolicited Proposal** – Southern Georgia Regional Commission Transit may negotiate a sole-source award with an offeror that presents an unsolicited proposal that makes available a unique and innovative idea or approach not available from another source. Unique or innovative concept means a new, novel, or changed concept, approach, or method that is the product of original thinking, the details of which are kept confidential or are patented or copyrighted and is available to the agency only from one source and has not in the past been available to the agency from another source.
- (b) **Patents or Restricted Data Rights** – Patent or data rights restrictions preclude competition.
- (c) **Substantial Duplication Costs** – In the case of a follow-on contract for the continued development or production of highly specialized equipment and major components thereof, when it is likely that award to another contractor would result in substantial duplication of costs that are not expected to be recovered through competition.
- (d) **Unacceptable Delay** – In the case of a follow-on contract for the continued development or production of a highly specialized equipment and major components thereof, when it is likely that award to another contractor would result in unacceptable delays in fulfilling agency's needs.

5.6.1.2. Single Bid or Proposal

- (a) **Single Bid or Proposal** – Upon receiving a single bid or proposal in response to a solicitation, Southern Georgia Regional Commission Transit should determine if competition was adequate. This should include a review of the specifications for undue restrictiveness and might include a survey of potential sources that chose not to submit a bid or proposal.
 - (1) **Adequate Competition** – Competition is adequate when the reasons for a single response were caused by conditions beyond Southern Georgia Regional Commission Transit 's control. After documenting the determination of adequate competition in the procurement file, the procurement process may continue with the single response.
 - (2) **Inadequate Competition** – Competition is inadequate when the reasons for a single response were caused by conditions within Southern Georgia Regional Commission Transit 's control. In such situations, Southern Georgia Regional Commission Transit must correct all deficiencies in the procurement process that caused competition to be inadequate (e.g., unduly restrictive specification, inadequate advertisement/ dissemination) and then reissue the solicitation.

5.6.1.3. Procurement Procedures

The following requirements apply when Southern Georgia Regional Commission Transit completes a procurement utilizing less than full and open competition:

- a) Potential Sources – Southern Georgia Regional Commission Transit must solicit offers from as many potential sources as is practicable under the circumstances.
- b) Sole Source Justification – Southern Georgia Regional Commission Transit must justify all sole source procurements in writing. Sole source procurement justifications must describe the reasons why a sole source procurement is appropriate, state which of the authorized justifications listed in Section 5.6.1.1 are applicable, include a cost or price analysis as appropriate (see Section 5.9.2.), and be signed by the Transportation Director. If Southern Georgia Regional Commission Transit decides to solicit an offer from only one source, Southern Georgia Regional Commission Transit must justify its decision in writing. The written justification must include the same elements as a sole source justification except that it must state which of the authorized justifications listed in Section 5.6.1.1 are applicable to the sole source purchase.

Exception for Procurement Activities Using Non-FTA Funds – When it is determined by the Transportation Director to be in the best interest of Southern Georgia Regional Commission Transit, noncompetitive procurement procedures may be utilized to acquire professional or other transportation-related services that do not involve the use of FTA financial assistance. Any such determination must be made in writing and signed by the Transportation Director.

5.6.2 When Prohibited

Less than full and open competition is not justified based on:

- (1) Failure to Plan – Southern Georgia Regional Commission Transit 's lack of advance planning, resulting in limited competition, is not justification for a sole source or single bid award.
- (2) Limited Availability of Federal Assistance – Concerns about the amount of Federal assistance available to support the procurement;

5.7. Evaluation Requirements

The following standards shall apply to all evaluations of bids or proposals conducted by Southern Georgia Regional Commission Transit.

5.7.1. General

When evaluating bids or proposals received in response to a solicitation, Southern Georgia Regional Commission Transit shall consider all evaluation factors specified in the solicitation documents and shall evaluate the bids or offers proposals only on the evaluation factors included in those solicitation

documents. Southern Georgia Regional Commission Transit may not modify its evaluation factors after bids or proposals have been received without re-opening the solicitation.

5.7.2. Options

The following standards shall apply when awarding contracts that include options:

5.7.2.1. Evaluation Required

In general, Southern Georgia Regional Commission Transit must evaluate bids or offers for any option quantities or periods contained in a solicitation if it intends to exercise those options after the contract is awarded. The price associated with exercising the option needs to be defined at the outset, either as a specific price, percentage increase of the base price, or some other calculable method. If the options were not evaluated as part of the award, the exercise of the options is considered a sole-source procurement.

5.7.2.2. Evaluation Not Required

Southern Georgia Regional Commission Transit need not evaluate bids or offers for any option quantities when Southern Georgia Regional Commission Transit does not intend to exercise those options after the contract is awarded.

5.7.2.3. Evaluators

In addition to evaluators with experience in technical or public policy matters related to the procurement, other evaluators may also include auditors and financial experts to the extent that the Transportation Director determines would be necessary or helpful. If Southern Georgia Regional Commission Transit lacks qualified personnel within its organization, it may solicit evaluators from other transit organizations or may contract for evaluation services. If it does so, the procurement procedures in this policy will apply to those contracts and to those contractors selected to perform evaluation functions on behalf of the recipient.

5.8. Contract Award Requirements

The following standards shall apply to all contract award decisions made by Southern Georgia Regional Commission Transit:

5.8.1. Award to Other Than the Lowest Bidder or Offeror

Southern Georgia Regional Commission Transit may award a contract to other than the lowest bidder if the award furthers an objective consistent with the purposes of 49 U.S.C. Chapter 53, including improved long-term operating efficiency and lower long-term costs. Southern Georgia Regional Commission Transit may also award a contract to other than the offeror whose price proposal is lowest, when stated in the evaluation factors of the solicitation. In both cases, Southern Georgia

Regional Commission Transit must include a statement in its solicitation document reserving the right to award the contract to other than the low bidder or offeror.

5.8.1.1. Award Only to a Responsible Bidder or Offeror

Southern Georgia Regional Commission Transit may only award contracts to responsible contractors possessing the ability, willingness, and integrity to perform successfully under the terms and conditions of the contract and who demonstrate that its proposed subcontractors also qualify as responsible. Southern Georgia Regional Commission Transit must consider such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources when making a determination of contractor responsibility. Southern Georgia Regional Commission Transit must also ensure that the contractor is not listed as a debarred or suspended contractor on the System for Award Management (SAM), which is maintained by the General Services Administration (GSA), at the time of contract award. Entities that are listed as debarred or suspended contractors on SAM may not be determined to be responsible contractors by Southern Georgia Regional Commission Transit. For every procurement action above the micro-purchase level, Southern Georgia Regional Commission Transit must make a written determination of the responsibility of the contractor and include such determination in the applicable contract file (See Section 3.6).

To designate a prospective contractor “responsible” as required by 49 U.S.C. § 5325, Southern Georgia Regional Commission Transit, at a minimum, must determine and ensure that the prospective contractor satisfies the following criteria described herein. In addition to being otherwise qualified and eligible to receive the contract award under applicable laws and regulations, a responsible contractor:

- (a) Integrity and Ethics – Has a satisfactory record of integrity and business ethics, in compliance with 49 U.S.C. Section 5325(j)(2)(A).
- (b) Debarment and Suspension – Is neither debarred nor suspended from Federal programs under DOT regulations, “Nonprocurement Suspension and Debarment,” 2 CFR Parts 180 and 1200, or under the FAR at 48 CFR Chapter 1, Part 9.4.
- (c) Affirmative Action and DBE – Is in compliance with the Common Grant Rules’ affirmative action and FTA’s Disadvantaged Business Enterprise requirements.
- (d) Public Policy – Is in compliance with the public policies of the Federal Government, as required by 49 U.S.C. § Section 5325(j)(2)(B).
- (e) Administrative and Technical Capacity – Has the necessary organization, experience, accounting, and operational controls, and technical skills, or the ability to obtain them, in compliance with 49 U.S.C. Section 5325(j)(2)(D).
- (f) Licensing and Taxes – Is in compliance with applicable licensing and tax laws and regulations.

- (g) Financial Resources – Has, or can obtain, sufficient financial resources to perform the contract, as required by 49 U.S.C. Section 5325(j)(2)(D).
- (h) Production Capability – Has, or can obtain, the necessary production, construction, and technical equipment and facilities.
- (i) Timeliness – Is able to comply with the required delivery or performance schedule, taking into consideration all existing commercial and governmental business commitments.
- (j) Performance Record – Is able to provide a:
 - (1) Current Performance – Satisfactory current performance record; and
 - (2) Past Performance – Satisfactory past performance given its records of long-time performance or performance with a predecessor entity, including:
 - i. Sufficient Resources. Key personnel with adequate experience, a parent firm with adequate resources and experience, and key subcontractors with adequate experience and past performance,
 - ii. Adequate Past Experience. Experience in carrying out similar work with particular attention to management approach, staffing, timeliness, technical success, budgetary controls, and other specialized considerations as described in the recipient’s solicitation, and
 - iii. Any Past Deficiencies Not the Fault of the Bidder or Offeror. A prospective bidder or offeror that is or recently has been seriously deficient in contract performance is presumed to be non-responsible unless the recipient determines that the circumstances were properly beyond the bidder or offeror’s control, or unless the bidder or offeror has taken appropriate corrective action. Past failure to apply sufficient tenacity, perseverance, and effort to perform acceptably is strong evidence of non-responsibility. Failure to meet the quality requirements of a contract is a significant factor to consider in determining satisfactory performance. GDOT expects Southern Georgia Regional Commission Transit to consider the number of the bidder or offeror’s contracts involved and the extent of deficient performance in each contract when making this determination.

5.8.1.2. Rejection of Bids and Proposals

Southern Georgia Regional Commission Transit may reject all bids or proposals submitted in response to an Invitation for Bids or Request for Proposals. Southern Georgia Regional Commission Transit must include a statement in its solicitation document reserving the right to reject all bids or proposals.

- (a) Extent and Limits of Contract Award – The selection of a contractor to participate in one aspect of a project does not, by itself, constitute a sole source selection of the

contractor's wholly owned affiliates to perform other work in connection with the project.

5.9. Independent Cost Estimate and Cost and Price Analysis

5.9.1. Independent Cost Estimate

For every procurement **above** the Simplified Acquisition Threshold, Southern Georgia Regional Commission Transit shall make a written independent estimate of cost *prior to* receiving price quotes, bids, or proposals.

The Independent Cost Estimate ("ICE") can range from a simple budgetary estimate to a complex estimate based on inspection of the product itself and review of such items as drawings, specifications, and prior data, such as cost data from prior procurements. The pre-solicitation ICE should inform the post-bid cost or price analysis. The ICE can assist in determining the reasonableness or unreasonableness of price and/or the estimated costs to perform the work. If the recipient intends to require a breakdown of estimated costs, the in-house independent cost estimate should be broken down into the various cost elements.

The ICE is essentially the recipient's estimate of what the item or service "should cost." Available resources for completion of an ICE include: (1) the use of published price lists, (2) historical pricing information from contracts awarded by the recipient's agency, (3) comparable purchases by other agencies, (4) engineering estimates, and (5) independent third party estimates (e.g., an A/E construction cost estimate).

5.9.2. Cost or Price Analysis

Southern Georgia Regional Commission Transit shall perform a cost or price analysis in connection with every procurement **over** \$250,000 and for all contract modifications. The cost or price analysis shall be based on the facts surrounding the particular procurement transaction. A cost analysis examines the reasonableness of the contractor's proposed costs to deliver the contract. A price analysis considers the overall price of the contract to the recipient. A price analysis will suffice if the agency documents the price reasonableness of the proposed award based on catalog or market price of a commercial product sold in substantial quantities to the general public or based on prices set by law or regulation.

5.9.2.1. Price Analysis

If Southern Georgia Regional Commission Transit determines that competition was adequate, a written price analysis, rather than a cost analysis, is required to determine the reasonableness of the proposed contract price.

5.9.2.2. Cost Analysis

Southern Georgia Regional Commission Transit must perform or obtain a cost analysis when:

- (a) A price analysis will not provide sufficient information to determine the reasonableness of the contract cost.
- (b) When the offeror submits elements of the estimated cost.
- (c) When price competition is inadequate, such as for a sole source procurement, or contract modifications.
- (d) In the event of a change order.

In the case of situations described above in (b) – (d), a price analysis may be performed in lieu of a cost analysis if the agency documents the price reasonableness of the proposed award based on a catalog or market price of a commercial product sold in substantial quantities to the general public or based on prices set by law or regulation.

5.10. Estimated Costs

Costs or prices based on estimated costs for contracts under the Federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the non-Federal entity under subpart E of 2 CFR § 200. Southern Georgia Regional Commission Transit may reference its own cost principles that comply with the Federal cost principles.

6. CONTRACT ADMINISTRATION REQUIREMENTS AND CONSIDERATIONS

6.1. Southern Georgia Regional Commission Transit Staff Responsibilities

Prior to the execution of third party contracts, Southern Georgia Regional Commission Transit shall designate a Project Manager to serve as Southern Georgia Regional Commission Transit 's principal contact with the contractor and as the primary administrator of the contract. The designated Project Manager for each contract shall have responsibility for directing and overseeing the work performed by the contractor; reviewing and approving deliverables and invoices from the contractor; determining percentage of contract completion for progress payments (if applicable); making recommendations on the exercise of contract options (if applicable); recommending contract changes; preparing justifications for contract changes; performing independent cost estimates and cost or price analyses for contract changes; making recommendations on approval or rejection of subcontractors; assisting with the resolution of contract disputes; making recommendations on contract termination or other contractor disciplinary actions; maintaining complete contract files; and other contract administration duties that may be necessary.

6.2. Administrative Restrictions on the Acquisition of Property and Services

The following Federal laws and regulations impose administrative requirements, many of which will affect specific third-party procurements.

6.2.1. Legal Eligibility

The property or services acquired must be eligible for support under the restrictions accompanying the Federal statute authorizing the Federal assistance to be used.

6.2.2. Scope of the Project

The property or services acquired must be eligible for support within the scope of the underlying grant or cooperative agreement from which the Federal assistance to be used is derived.

6.2.3. Period of Performance

Southern Georgia Regional Commission Transit will use sound business judgment and be judicious in establishing and extending a contract's period of performance.

6.2.3.1. General Standards

The period of performance generally should not exceed the time necessary to accomplish the purpose of the contract. Southern Georgia Regional Commission Transit will also consider competition, pricing, fairness, and public perception. Southern Georgia Regional Commission Transit 's procurement files will document its rationale for determining the performance period designated for each contract.

6.2.3.2. Time Extensions

Consistent with the general tone of FTA Circular 4220.1G, contract time extensions shall be considered in light of whether they are permissible changes or impermissible cardinal changes. Once Southern Georgia Regional Commission Transit awards a third-party contract, an extension of the contract term length that amounts to a cardinal change will require a sole source justification.

6.2.3.3. Authority to Extend

The Transportation Director for the contract shall recommend all contract time; prior to making a recommendation for a contract time extension. The Transportation Director shall prepare a written justification and cost analysis (if applicable) for the contract time extension and shall negotiate the appropriate contract modification with the contractor.

6.3. Contract Modifications and Change Orders

A contract modification is any written change in the terms of the contract. Southern Georgia Regional Commission Transit is responsible for issuing, evaluating, and making necessary decisions involving any change to its third-party contracts, and any change orders or modifications it may issue.

Change orders may be limited in scope; generally, all changes will be consistent with the scope of the contract. It is the responsibility of Southern Georgia Regional Commission Transit to evaluate the change order and determine if the change is consistent with the scope of the original contract. If determined to be outside the scope of the original contract, then Southern Georgia Regional Commission Transit shall consider the change to be a cardinal change in the scope of work. These changes shall be considered to be a sole source award and be subject to the requirements set forth in this policy for sole source awards.

There are different modifications, as follows:

6.3.1. Bilateral Contract Modification

A bilateral contract modification represents a contract change that must be signed by both parties and is sometimes referred to as a supplemental agreement. This type of modification is used to:

- Make negotiated equitable adjustments to the contract price, delivery schedule, or other contract terms resulting from the issuance of a change order
- Define letter contracts
- Reflect other agreements of the parties modifying the terms of the contract

6.3.2. Unilateral Contract Modification

A unilateral contract modification only requires authorization by Southern Georgia Regional Commission Transit. Such changes are used to make administrative changes, issue change orders, make changes authorized by clauses other than a bilateral modification, or issue termination notices.

6.3.3. Change Orders for Construction Projects

Southern Georgia Regional Commission Transit shall provide and maintain competent and adequate engineering supervision at the construction site to ensure that the complete work conforms to the approved plans and specifications.

6.3.4. Authority

The Transportation Director shall have authority to approve all contract modifications that do not alter the scope of work greater than \$10,000. Changes that impact project costs above this level shall be approved by the Transportation Director.

6.3.5. Necessity to Perform Cost or Price Analysis

If a contract modification is construed to meet the definition of a “cardinal change” in the scope of work, Southern Georgia Regional Commission Transit is obligated to conduct a cost or price analysis in conjunction with the contract modification.

6.4. Federal Cost Principles

Federal rules require project costs to conform to applicable Federal cost principles for allowable costs. In general, costs must be necessary and reasonable, allocable to the project, authorized or not prohibited by Federal law or regulation, and must comply with Federal cost principles applicable to the recipient.

OMB guidance for grants and agreements, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards,” 2 CFR § 200, applies to project costs incurred Southern Georgia Regional Commission Transit.

6.5. Payment Provisions

Southern Georgia Regional Commission Transit will follow the provisions of this section when using FTA funds to support its third-party contracts.

6.5.1. Financial Support for the Project

Costs may only be incurred by Southern Georgia Regional Commission Transit if GDOT has awarded a financial assistance contract to Southern Georgia Regional Commission Transit.

6.5.1.1. Progress Payments

Progress payments are payments for contract work that has not been completed Southern Georgia Regional Commission Transit may use (GDOT) assistance to support progress payments provided the recipient obtains adequate security for those payments and has sufficient written documentation to substantiate the work for which payment is requested.

6.5.1.2. Adequate Security for Progress Payments

Adequate security for progress payments may include taking title, obtaining a letter of credit, or taking equivalent measures to protect the recipient's financial interest in the progress payment. Adequate security should reflect the practical realities of different procurement scenarios and factual circumstances. Southern Georgia Regional Commission Transit should always consider the costs associated with providing security (for example, the recipient may need to acquire bonds or letters of credit in the commercial marketplace) and the impact of those costs on the contract price, as well as the consequences of incomplete performance.

6.5.1.3. Adequate Documentation

Sufficient documentation is required to demonstrate completion of the amount of work for which progress payments are made.

6.6. Protections Against Performance Difficulties

Southern Georgia Regional Commission Transit shall include provisions in its third-party contracts that will reduce potential problems that might occur during contract performance, as follows:

6.6.1. Changes

Southern Georgia Regional Commission Transit shall include provisions that address changes and changed conditions in all third-party contracts except for routine supply contracts.

6.6.2. Remedies

Southern Georgia Regional Commission Transit shall include provisions that address remedies in its third-party contracts. Provisions related to remedies may include provisions for:

6.6.2.1. Liquidated Damages

Southern Georgia Regional Commission Transit may use liquidated damages if Southern Georgia Regional Commission Transit reasonably expects to suffer damages through delayed contract completion, or if weight requirements are exceeded, and the extent or amount of such damages are uncertain and would be difficult or impossible to determine. Rate and measurement standards must be calculated to reasonably reflect Southern Georgia Regional Commission Transit's costs should the standards not be met and must be specified in the solicitation and contract. The assessment for damages may be established at a specific rate per day for each day beyond the contract's delivery date or performance period. A measurement

other than a day or another period of time, however, may be established if that measurement is appropriate, such as weight requirements in a rolling stock purchase. The contract file must include a record of the calculation and rationale for the amount of damages established. Any liquidated damages recovered must be credited to the project account.

6.6.2.2. Violation or Breach

Third-party contracts exceeding \$250,000 must include administrative, contractual, or legal remedies for violations or breaches of the contract by the third-party contractor.

6.6.2.3. Suspension of Work

Southern Georgia Regional Commission Transit may include provisions pertaining to suspension of work in its third-party contracts.

6.6.2.4. Termination

Termination for cause and termination for convenience provisions must be included in third party contracts exceeding \$10,000.

6.7. Contents of Complete Contract Files

The following documents shall comprise the contents of a complete contract file for procurements above the micro-purchase level:

6.7.1. Written Record of Procurement History

Southern Georgia Regional Commission Transit shall maintain written records detailing the history of the procurement, including records relating to:

6.7.1.1. Procurement Method

Southern Georgia Regional Commission Transit must provide its rationale for the method of procurement it used for each contract, including a sole source justification for any acquisition that does not qualify as competitive.

6.7.1.2. Contract Type

Southern Georgia Regional Commission Transit must state the reasons for selecting the contract type it used.

6.7.1.3. Contractor Selection

Southern Georgia Regional Commission Transit must state its reasons for contractor selection or rejection, including written justification and evaluation documents.

6.7.1.4. Contractor Responsibility

Southern Georgia Regional Commission Transit must provide a written determination of responsibility for the successful contractor.

6.7.1.5. Cost or Price

Southern Georgia Regional Commission Transit must evaluate and state its justification for the contract cost or price, including the independent cost estimate and cost or price analysis.

6.7.1.6. Reasonable Documentation

Southern Georgia Regional Commission Transit must retain documentation commensurate with the size and complexity of the procurement, including documents related to solicitation, receipt and evaluation of offers, and contract award, negotiation, and execution.

6.8. Access to Records

Federal rules (49 U.S.C. § 5325(g)) provide FTA and GDOT officials, the Comptroller General, or any of their representatives, access to and the right to examine and inspect all records, documents, and papers, including contracts, related to any FTA project financed with Federal assistance authorized by 49 U.S.C. Chapter 53.

6.9. Contract Administration and Close-Out Documents

Southern Georgia Regional Commission Transit shall maintain written records detailing the performance and close-out of the contract, including records relating to:

6.9.1. Contractor Performance

Southern Georgia Regional Commission Transit must maintain documents related to contractor adherence to budget and schedule, compliance with contract terms and conditions, DBE participation, progress reports, disputes, and disciplinary actions.

6.9.2. Contract Deliverables

Southern Georgia Regional Commission Transit must maintain copies of all contract deliverables and records relating to approval, rejection, and requested modifications of contract deliverables.

6.9.3. Contract Changes

Southern Georgia Regional Commission Transit must maintain copies of all contract modifications, including documentation related to the determination of need, written justification and rationale, cost analysis, negotiation, and execution.

6.9.4. Contract Payments

Southern Georgia Regional Commission Transit must retain documentation of invoices, approval of payments, requests for modifications to invoices, determination of the percentage of contract completion for partial payments (if applicable), and ownership of title to partial work products.

6.9.5. Contract Close-Out

Southern Georgia Regional Commission Transit must retain documentation related to contractor performance and evaluation, approval of final deliverables and payments, transfer of title to complete work products to Southern Georgia Regional Commission Transit, and contract audit and final reconciliation.

6.10. Protest Procedures

6.10.1. Statement of Policy

Southern Georgia Regional Commission Transit is responsible for resolving all contractual and administrative issues, including protests of evaluations and contract awards, arising out of its third-party procurements using good administrative practices and sound business judgment.

In general, GDOT will not substitute its judgment for that of Southern Georgia Regional Commission Transit unless the matter is primarily a Federal concern. Nevertheless, GDOT and FTA can become involved in Southern Georgia Regional Commission Transit 's administrative decisions when a Southern Georgia Regional Commission Transit protest decision is appealed to GDOT.

Southern Georgia Regional Commission Transit shall give timely notification to GDOT when it receives a third-party procurement protest and will keep FTA informed about the status of any such protest. Southern Georgia Regional Commission Transit shall disclose all information about any third-party procurement protest to GDOT upon request.

Southern Georgia Regional Commission Transit 's procedure for addressing third-party procurement protests is described in Paragraph 6.10.3 below. Southern Georgia Regional Commission Transit shall insert its protest procedure in all solicitation documents for products and services having an estimated value of \$100,000 or greater.

6.10.2. Southern Georgia Regional Commission Transit Staff Responsibilities

The following staff responsibilities shall be assigned in all protests:

- Transportation Director – Responsibilities include: ensuring that the Southern Georgia Regional Commission Transit Protest Procedure is included in all solicitation documents; and providing information to and assisting the legal counsel with the resolution of protests.
- Legal counsel – Responsibilities include: reviewing all procurement protests; and advising and assisting the agency as needed with the resolution of all procurement protests.

6.10.3. Solicitation Provision

Southern Georgia Regional Commission Transit shall insert the following provision in all solicitation documents:

6.10.3.1. Pre-Proposal Protests

All protests concerning solicitation specifications, criteria, and/or procedures shall be submitted in writing (defined as being sent or received via letter or facsimile on official firm/agency letterhead or by electronic mail) to the Transportation Director as specified below not later than ten (10) business days prior to the deadline for submission of bids/proposals.

The Transportation Director may, within his or her discretion, postpone the deadline for submission of bids/proposals, but in any case, shall provide a written response to all protests not later than five (5) business days prior to the deadline for submission of bids/proposals. If the deadline for submission of bids/proposals is postponed by the Transportation Director as the result of a protest the postponement will be announced through an addendum to the solicitation.

The decision by the Transportation Director shall be the final agency decision on the matter but shall be subject to judicial review as set forth by FTA below.

6.10.3.2. Pre-Award Protests

With respect to protests made after the deadline for submission of bids/proposals but before contract award by Southern Georgia Regional Commission Transit, protests shall be limited to those protests alleging a violation of Federal or State law, a challenge to the bids/proposals evaluation and award process, Southern Georgia Regional Commission Transit's failure to have or follow its protest procedures or its failure to review a complaint or protest. Such protests shall be submitted in writing (defined as being sent or received via letter or facsimile on official firm/agency letterhead or by electronic mail) to the Transportation Director as specified below not later than five (5) business days after the Recommendation for Contract Award announcement by Southern Georgia Regional Commission Transit.

The Transportation Director may, within his or her discretion, postpone the award of the contract, but in any case, shall provide a written response to all protests not later than three (3) business days prior to the date that Southern Georgia Regional Commission Transit shall announce the contract award.

The decision by the Transportation Director shall be the final agency decision on the matter but shall be subject to judicial review as set forth or review by GDOT as specified below.

6.10.3.3. Protests of the Evaluation Process

All bidders/proposers will be notified of the recommended award, upon a determination by the Transportation Director. This notice will be transmitted to each proposer at the address contained in its proposal form, electronic means or by hard copy. Any proposer whose proposal is valid at the time of the staff determination may protest the recommended award on one or more of the following grounds:

- (a) That the recommended awardee does not meet the requirements of the solicitation;
- (b) That the bid or proposal recommended for acceptance does not meet the criteria of the solicitation or award;
- (c) That the evaluation process conducted by the agency is improper, illegal, or the decision to recommend award is arbitrary and capricious.

The protest must conform in all respects to the requirements set forth below. The protest must be received by agency at the address specified in the solicitation, no later than five (5) calendar days after the date such notification is publicly posted or sent to the bidder or proposer, whichever is earlier. A written decision stating the grounds for allowing or denying the protest will be transmitted to the protestor and the proposer recommended for award in a manner that provides verification of receipt. Such decision shall be final, except as provided in Review of Protest by GDOT below or by applicable law or regulation.

6.10.4. Requirements for Protests

All protests must be submitted to Southern Georgia Regional Commission Transit in writing (defined as being sent or received via letter or facsimile on official firm/agency letterhead or by electronic mail), with sufficient documentation, evidence, and legal authority to demonstrate that the Protestor is entitled to the relief requested. The protest must be certified as being true and correct to the best knowledge and information of the Protestor, and be signed by the Protestor. The protest must also include a mailing address to which a response should be sent.

Protests received after the deadlines for receipt of protests specified above are subject to denial without any requirement for review or action by Southern Georgia Regional Commission Transit.

All protests must be directed in writing (defined as being sent or received via letter or facsimile on official firm/agency letterhead or by electronic mail) to the Transportation Director at the address shown in the solicitation documents.

6.10.5. Protest Response

The Transportation Director shall issue written responses to all protests received by the required protest response dates. All protest responses shall be transmitted by first-class U.S. Postal Service to the address indicated in the protest letter.

For convenience, Southern Georgia Regional Commission Transit will also send a copy of the response to a protest to the Protester by facsimile and/or electronic mail if a facsimile number and/or electronic mail address are indicated in the protest letter. The protest response transmitted by the U.S. Postal Service shall be the official Southern Georgia Regional Commission Transit response to the protest and (Southern Georgia Regional Commission Transit will not be responsible for the failure of the Protester to receive the protest response by either facsimile or electronic mail.

6.10.6. Review of Protests by GDOT

All protests involving contracts financed with Federal assistance shall be disclosed to GDOT. Protesters shall exhaust all administrative remedies with Southern Georgia Regional Commission Transit prior to pursuing protests with GDOT. GDOT limits its reviews of protests to: a grantee's failure to have or follow its protest procedures; a grantee's failure to review a complaint or protest when presented an opportunity to do so; or violations of Federal law or regulation. Appeals to GDOT must be received within five (5) working days of the date the Protester has received actual or constructive notice of Southern Georgia Regional Commission Transit final decision or within five (5) working days of the date the Protester has identified other grounds for appeal to GDOT.

Policy Name: **SGRC Procurement Procedures**
Effective Date: 07/23/2015
Revision Date: 09/01/2022

The purpose of procurement procedures is to establish guidelines governing the purchase of supplies, equipment, contractual services, and other items by the Southern Georgia Regional Commission (RC). These procedures are designed to ensure that the RC's funds are expended in accordance with sound business practices, have sufficient documentation and approval, and that expenditures meet the requirements of federal, state, and local funding agencies. The RC will follow the guidelines established by 2 CFR 200.318-326 as part of these procurement procedures.

These procurement procedures are not intended to restrict or eliminate competition. All procurement transactions, regardless of whether by sealed bids or by negotiation and without regard to dollar value, shall be conducted in a manner that provides maximum open and free competition. All purchases, regardless of program, will be guided by these procedures and in accordance with applicable agency regulations.

Affirmative action steps will be taken to assure that small and minority businesses and women's business enterprises are used when possible. Affirmative steps will include placing qualified small and minority businesses and women's business enterprises on solicitation lists and assuring that they are solicited whenever they are potential sources.

DISADVANTAGED BUSINESS ENTERPRISE

It is the policy of the RC that Disadvantaged Business Enterprises (DBEs), as defined in 49 CFR Part 26, shall have the equal opportunity to participate in the performance of the RC's contracts which are funded, either wholly or partially, with federal funds from U.S. Department of Transportation financial assistance programs.

RC staff is responsible for compliance with this policy within his/her department and will use his/her best efforts to carry out the policy in the solicitation and award of departmental contracts to the fullest extent possible consistent with the efficient operation of the department's work. The formal DBE Policy is contained in a separate document.

METHODS OF PROCUREMENT

Procurement procedures will not be applied to purchases of items or services if:

- The cost of a single item or service is \$500 or less,
- The purchase is made through online government surplus auctions (www.govdeals.com), or
- The purchase is made from state-approved vendors where a state agency has already satisfied procurement requirements.

For all other purchases, the RC will utilize one of the following methods of procurement:

Micro-purchase – A micro-purchase is the acquisition of supplies and services, the aggregate dollar amount of which does not exceed the micro-purchase threshold set by the Federal Acquisition Regulation at 48 CFR Subpart 2.1 (Definitions). (As of July 2015, the micro-purchase threshold is \$3,000.) To the extent practicable, micro purchases will be distributed equitably among qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotations if the RC considers the price to be reasonable. For purchases of routine supplies, price quotations may be obtained periodically to ensure the RC is receiving the best price available.

Small purchase – A small purchase is a relatively simple and informal procurement method to secure services, supplies, or other property that does not cost more than the Simplified Acquisition Threshold set by the Federal Acquisition Regulation at 48 CFR Subpart 2.1 (Definitions) and in accordance with 41 U.S.C. 1908. (As of July 2015, the Simplified Acquisition Threshold amount is \$150,000.) If small purchase procedures are used, price or rate quotations shall be obtained from three qualified sources. Quotations may be obtained via phone, Internet or catalog.

When price quotations are required, a Comparable Price Documentation Form must be attached to the Requisition Form. This form includes a description of the item(s), the quantity, the vendors contacted, the date the quotes were received, the amounts quoted, any pertinent information regarding the quotes, the vendor selected, and the reason for the selection.

Sealed bid (formal advertising) – Bids are publicly solicited and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming to all the material terms and conditions of the invitation for bids, is the lowest in price. If sealed bids are used, the following requirements apply:

- The invitation for bids will be advertised as a public notice in the local newspaper and also submitted as a news release in other area newspapers. The RC will notify in writing known suppliers, providing them sufficient time prior to the date set for opening the bids;
- The invitation for bids, which will include any specifications and pertinent attachments, shall define the items or services in order for the bidder to properly respond;
- All bids will be publicly opened at the time and place prescribed in the invitation for bids;
- A firm fixed-price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs shall be considered in determining which bid is lowest; and
- The RC may reject any and all bids, if there is a sound documented reason. Reasons for rejection include but are not limited to:
 - All bids are over available funds.
 - Funds are no longer available.
 - Bids do not meet specifications.

Competitive proposal – The RC will use the competitive proposal method when more than one source will submit an offer, and/or when program specs are too broad to compare bids solely on the basis of cost/price. If this method is used, the following requirements apply:

- Requests for proposals (RFP) will be publicized as a public notice in the local newspaper and submitted to other area newspapers as a news release. Any response to publicized requests for proposals shall be honored to the maximum extent practical;
- The RFP will identify all evaluation factors and their relative importance;
- Proposals will be solicited from bidders' list, and other appropriate sources;
- On the proposals received, evaluations will be conducted by appropriate staff, council members, and/or individuals with expertise/knowledge pertinent to the procured service; and
- Awards will be made to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered. As a result, the proposal with the lowest cost may not be awarded the contract.

Noncompetitive proposal – Noncompetitive proposal procurement is through solicitation of a proposal from only one source. Procurement by noncompetitive proposal may be used only when the award of a contract is not feasible under small or micro purchase procedures, sealed bids, or competitive proposals and one of the following circumstances applies:

- The item is available only from a single source;
- The need for the item or service is immediate;
- The awarding agency authorizes noncompetitive proposals; or
- After solicitation of a number of sources, competition is determined inadequate.

The need for noncompetitive procurement will be documented in writing and attached to the Requisition Form or contract, whichever is applicable.

VENDORS

For purposes of this section, vendors will include suppliers, consultants, contractors, and subcontractors. Awards will be made only to responsible suppliers and contractors who possess the potential ability to perform successfully. Consideration shall be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

All vendors providing supplies, equipment, or services to the RC shall be reputable firms or individuals having the demonstrated capacity to produce or provide supplies, equipment, and/or services within a reasonable amount of time. All new vendors must furnish a W-9 to the RC prior to receipt of payment.

Vendors shall be subject to disqualification if they are found to misrepresent quality, quantity, or price of supplies, equipment, services, or items delivered. Vendors will also be disqualified if time limits established for the purchases are exceeded.

DEBARMENT AND SUSPENSION

Consistent with federal regulations, RC staff will take necessary steps to ensure that its contractors are not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in the transaction/contract.

CERTIFICATION REGARDING FEDERAL LOBBYING

Consistent with Public Law 101-121, Section 319 (31 U.S.C. 1352) RC staff will require contractors whose awards exceed \$100,000 to provide certification regarding compliance with lobbying restrictions.

PURCHASING PROCEDURES

Initiating a Purchase – Any staff member may initiate a purchase. A purchase is initiated by completing a standard Requisition Form, listing the supplies, equipment, services, or other item requested, quantity, cost, vendor name, and justification for purchase

Approval Levels – All purchases must have a requisition form signed by the originating staff member and one (1) of the following:

\$250 or Less

Purchases for \$250 or less must be signed by the originating staff member and the Program Director.

\$251 - \$1,000

Purchases between \$251 and \$1,000 must be signed by the originating staff member and one of the following: (1) Assistant Executive Director, (2) Deputy Executive Director of Governmental Services, (3) Deputy Executive Director of Human Services.

Over \$1,000

Purchase over \$1,000 must be signed by the originating staff member and the Executive Director.

Exception

If the cost will be reimbursed to the RC from a source other than the RC's program funding the Program Director may approve regardless of dollar value.

Example: Expenditures for client items for Money Follows the Person (MFP) program.

Employee travel related items such as registration, lodging, parking, and airfare will not require a Requisition Form. Instead, an Authorization for Out of Area Travel Form signed by the originating staff person and approved by the Program Director and the Executive Director or designee is required. The Authorization for Out of Area Travel Form will list anticipated costs and requested method of payment for each cost (RC credit card, RC check, or reimbursement). If a registration payment by check is required, an original and one copy of the registration form must be attached to the Authorization for Out of Area Travel Form, and the notes on the form must indicate the date by which the check must be received by the registrar.

A Requisition Form is not required for recurring monthly bills such as utility bills, telephone bills, building payment, and payment of items under a contract.

Purchase Orders – Purchases of supplies and equipment will be made by submission of a purchase order to the vendor, unless not required by the vendor.

Purchase order numbers are automatically generated when a requisition is entered and approved on SharePoint. An electronic copy of the approved purchase requisition as well as any backup documentation required will be emailed to the Accounts Payable clerk to be placed in the outstanding purchase order file until an invoice is received.

Other Purchases – Purchases of gas for the RC vehicles are made on the RC gas cards. These cards are provided with each vehicle. Gas purchases will be logged in the vehicle's car book at the time of purchase. Reimbursement for cash purchases of gas will only be made when the gas card is not accepted. In these instances, receipts must be kept and request for reimbursement may be made on a Requisition Form.

ACQUISITION AND DISPOSITION OF PROPERTY

The acquisition and disposal of property is a necessary component of conducting business for the RC. Any purchase or disposition of a single piece of property where the value exceeds \$1,000 must be approved by the Executive Director or his/her designee. In addition, any purchase or disposition of a single piece of property where the value exceeds \$25,000 must be approved by the Executive Committee of the Council. This policy pertains to both real and personal property. All acquisitions and dispositions of property, regardless of program, will be guided by this policy and in accordance with applicable agency regulations.

PROCUREMENT PROTEST PROCEDURES

Any party registering a protest pertaining to the issuance of a contract or award under these procurement procedures must do so in writing within ten (10) calendar days from the date of issuance of the contract or award.

Any dispute concerning a question of fact arising either from a consultant or subrecipient selection decision, or under a consultant or subgrant contract, once executed, shall be decided by the RC Executive Director who, after advisory consultation with all appropriate RC officials shall promptly reduce such decision concerning the question of fact to writing and mail, or otherwise furnish a copy thereof, to the disputing party. The Executive Director shall concurrently fully advise the disputing party, in writing, of the provisions outlined herein below concerning the disputing party's right to appeal the decision to the appropriate committee. The decision of the Executive Director shall be final and conclusive unless, within ten (10) calendar days of receipt of such copy, the disputing party mails or otherwise furnishes a written appeal concerning the question of fact to the Executive Director, who shall arrange a formal hearing within thirty (30) calendar days after receipt of the appeal, before the appropriate committee. Both the disputing party and the appropriate Program Director shall be notified no less than five (5) calendar days in advance of the hearing and shall have the right to present witnesses and give evidence concerning the question of fact at such time. Within thirty (30) calendar days after the hearing, the Chair of the appropriate committee shall direct the committee to make a decision concerning the question of fact in writing to the disputing party and to the Executive Director.

STANDARDS OF CONDUCT

No employee, officer, agent, or council member of the RC shall participate in the selection, award, or administration of a contract if he/she has a real or apparent conflict of interest. Such a conflict of interest would arise when (1) the employee, officer, agent, or council member, (2) any member of his/her immediate family, (3) his/her partner, or (4) an organization which employs, or is about to employ, any of the parties indicated above, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The RC's officers, employees, agents, or council members will neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to subcontracts, other than items of nominal intrinsic value.

Violation of the standards of conduct may result in disciplinary action up to and including termination/dismissal.

COMPARABLE PRICE DOCUMENTATION FORM

Description of Item: _____	

Quantity: _____	Delivery Date: _____

Date: _____		Company: _____	
Phone: _____		Person Contacted _____	
Price Quoted: _____	_____		
Comment: _____			

Date: _____		Company: _____	
Phone: _____		Person Contacted _____	
Price Quoted: _____	_____		
Comment: _____			

Date: _____		Company: _____	
Phone: _____		Person Contacted _____	
Price Quoted: _____	_____		
Comment: _____			

Company Selected:	_____
Reason for Selection:	_____
Employee Signature:	_____
Date:	_____