

AGENDA ITEM 3 B  
Information Item

**MEMORANDUM**

**DATE:** September 4, 2025

**TO:** El Dorado County Transit Authority

**FROM:** Kate Hewett, Finance Manager

**SUBJECT:** Draft of Purchasing Policies and Procedures Manual (Updated)

**REQUESTED ACTION:**  
**BY MOTION,**

**No action. Information item.**

**BACKGROUND**

At the October 2024 El Dorado County Transit Authority (El Dorado Transit) Board Meeting, a purchase order was approved authorizing Regional Government Services to consult on updating the current Purchasing Policies and Procedures Manual which had not been updated since 2012.

**DISCUSSION**

El Dorado Transit Staff have worked closely with Regional Government Services Staff to update the Purchasing Policies and Procedures Manual so that El Dorado Transit remains compliant with Federal, State, and Local Funding.

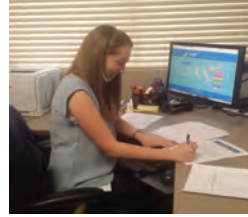
Attached is a copy of the revised and updated Purchasing Policies and Procedures Manual for your review.

Michael Luken with Regional Government Services is available (via Zoom) to answer any questions the Board may have regarding the draft of the Purchasing Policies and Procedures Manual.

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# **EL DORADO TRANSIT**



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## **Procurement Policies and Procedures Manual**

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## TABLE OF CONTENTS

TABLE OF CONTENTS.....	1
CHAPTER 1: PURCHASING POLICIES, GOALS AND OBJECTIVES.....	3
CHAPTER 2: PURCHASE REQUISITION PROCEDURES.....	6
CHAPTER 3: METHODS OF PROCUREMENT.....	13
CHAPTER 4: CREDIT CARD POLICIES .....	19
CHAPTER 5: ALTERNATIVE PROJECT DELIVERY METHODS.....	22
CHAPTER 6: NON-CAPITAL PURCHASE PROCEDURES.....	25
CHAPTER 7: SOLE SOURCE NON-COMPETITIVE NEGOTIATION .....	27
CHAPTER 8: NEGOTIATION AND SEALED BID PROCUREMENT REQUIREMENTS.....	28
CHAPTER 9: CONTRACT ADMINISTRATION .....	40
CHAPTER 10: BONDING REQUIREMENTS .....	45
CHAPTER 11: CONTRACTING WITH SMALL AND MINORITY BUSINESSES, WOMEN'S DISADVANTAGED BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS .....	46
CHAPTER 12: FEDERAL AWARDDING AGENCY REVIEW .....	46
CHAPTER 13: PROTEST PROCEDURES.....	47
CHAPTER 14: DEFINITIONS.....	50
CHAPTER 15: LIST OF FTA CLAUSES .....	58
CHAPTER 16: PROCUREMENT CHECKLISTS.....	61
CHAPTER 17: FORMS.....	65

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# CHAPTER 1: PURCHASING POLICIES, GOALS AND OBJECTIVES

## **Policies, Goals and Objectives**

It is the responsibility of the El Dorado County Transit Authority (the Authority, El Dorado Transit) staff to coordinate, monitor, and record all phases of purchasing of supplies, equipment, materials, services, and construction for the Authority. The staff is also responsible for the sale of Authority surplus and obsolete property. When a member agency municipal code occupies the same subject area of guidance provided in these procedures, the more restrictive requirements shall apply.

In the course of performing its responsibilities, the staff is guided by certain policy objectives, broadly stated as follows:

- A.** Conserve public funds through reduction in cost and improvement in quality of supplies, equipment, materials, services, construction procured, and reduce the overhead cost of contracting, buying, and selling.
- B.** Achieve and promote cost-effective procurements by:
  - 1.** Analyzing alternative approaches for each procurement, such as purchase, time-share, lease, state and intergovernmental/interagency agreements. The Authority considers various procurement sources to ensure economical purchases including, but not limited to GSA, CMAS, State of California and municipal cooperatives.
  - 2.** Structuring each procurement through consolidation of similar products and separation of dissimilar ones.
  - 3.** Eliminating purchase of unnecessary or duplicative items and services.
  - 4.** Encouraging price and quality competition among suppliers, vendors, contractors, and consultants.
- C.** Reduce the volume and streamline the flow of paperwork; at the same time, maintain accurate documentation of transactions.
- D.** Utilize competent technical expertise where needed in the initiation and administration of procurements and contracts.
- E.** Adhere to participation goals and procedures incidental to the Disadvantaged Business Enterprise Policy.
- F.** Follow the procedures of the Procurement Policies and Procedures Manual, with the

aim of furthering the goals and objectives that are the reason for such procedures.

- G. Perform all duties and responsibilities in compliance with local, state, and federal law, and consistent with applicable standards of conduct and ethics.
- H. Require that vendors present acceptable documentation evidencing the quality of the product and the accuracy of representations relative to the product.
- I. The Authority and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in 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.

#### **Standards of Conduct**

- A. Duty to Disclose. Employees shall not be involved in any purchasing decisions, tasks, or procedures (including participation in initiation, award, or administration of a contract) in which they or persons related to them have a real or apparent conflict of interest, as more particularly defined in Subsection B, below. In cases where there may be such conflict of interest, employees have the responsibility to report in writing such conflict to the Executive Director. Failure to make such disclosure is subject to discipline, as hereinafter defined.
- B. Conflict of Interest. The Political Reform Act of 1974 maintains a conflict-of-interest code, Section 87500 under which certain designated employees and corporate directors are required to disclose economic interests and are prohibited from participating in decisions which may influence their financial interests.

For the purpose of these Procurement Policies and Procedures Manual Standards of Conduct, it is further required that no employee, or corporate director of the Authority shall participate in procedures, tasks, or decision relative to initiation, award, or administration of a contract if a conflict of interest, real or apparent, exists. Such a conflict of interest arises when: (a) the employee, or corporate director; (b) any member of his or her immediate family; (c) his or her business associate; or (d) an organization which employs, or which is about to employ, any of the above has a financial or other interest in a firm that participates in the bidding process or that is selected for an award.



- C. Gratuities and Contingent Fees. No Board Member, Officer, or employee shall knowingly solicit, accept, or agree to accept gifts, gratuities, or favors in connection with actual or potential procurement and contracting activities. California Government Code Section 84308 (commonly referred to as the "Levine Act") prohibits any Agency Board Member from participating in any action related to a contract, if he or she receives any political contributions totaling more than \$500, or the amount defined by Government Code Section 84308, from the person or company awarded the contract within the previous twelve months, and for three months following the date a final decision concerning the contract has been made. The Levine Act also requires a member of the Agency Board who has received such a contribution to disclose the contribution on the record of the proceeding.
- D. Confidential Information. No member of the staff shall use confidential information for his or her actual, anticipated, or apparent personal gain, or for the actual, anticipated, or apparent personal gain of any person related to such employee as such relationship is defined in Subsection B, above. "Confidential Information" is defined to include any proprietary, privileged, or nonpublic information, coming to the employee's attention as a result of employment by the Authority, the knowledge of which makes possible financial gain.
- E. Discipline for Violation. The violation of any of these Standards of Conduct will subject the violator to any disciplinary proceedings or action deemed appropriate by the Authority, up to and including dismissal.

#### **Delegation of Authority**

- A. The Board of Directors authorizes and delegates to the Executive Director the authority and responsibility to:
1. Approve and execute all Purchase Requisitions.
  2. Approve and execute Purchase Orders and Contracts which do not exceed \$25,000.
  3. Approve and execute Change Orders and Contract Amendments as may from time to time be necessary, which do not exceed \$25,000. When contract changes exceed \$25,000 or \$100,000 in aggregate the change shall be approved by the Board of Directors.
  4. Execute all contract documents including purchase orders, blanket purchase orders, contracts, change orders, contract amendments, and settlements after any necessary approval by the Board of Directors.

All of the above is to be within the approved official budget and consistent with the

established policies and approved projects of the Authority.

All Purchase Orders, Contracts, Blanket Purchase Orders, Contract Change Orders, Contract Amendments, and proposed claim settlements in excess of the amounts set forth above shall be submitted for approval to the Board of Directors prior to execution.

In those instances, where work must progress immediately, the Executive Director may approve any Purchase Order, Blanket Purchase Order, Contract, Change Order, Contract Amendment, or claim settlement within the budget and under an approved project. The facts and circumstances of such action shall be reported to the Board of Directors at its next meeting for ratification.

In the absence of the Executive Director, the Finance Manager is authorized to approve purchase orders under \$25,000 for Board approved projects.

Purchase Orders below \$25,000 that did not require Board approval and later require Change Orders resulting from unforeseeable situations that cause the Original Purchase Order to exceed \$25,000 shall be brought before the Board immediately for ratification.

- B. The Executive Director may delegate, in writing, any of the authorities granted to him or her under [Resolution 25-\\_\\_\\_\\_\\_](#); provided, however, that the Executive Director shall retain overall responsibility for the control over all matters conducted by him or her as a result of his or her delegation of authority hereunder. Each Manager below shall notify the Executive Director of the approval of all purchases along with required purchase documentation in accordance with the adopted procurement policy. The Executive Director hereby authorizes the Finance Manager to approve purchases up to \$25,000 in accordance with this manual.

## CHAPTER 2: PURCHASE REQUISITION PROCEDURES

### **General Requirements**

The purpose of this chapter is to outline the method by which materials, supplies, equipment and services will be requested.

Purchase requisitions will be submitted to the Executive Director and the Finance Manager containing the recommended level of procurement method in accordance with this manual. The Executive Director will then consider staff's request, modify as appropriate and approve or deny the request. Staff will not proceed with any commitment or implementation of the project without the approval of the Executive Director or Finance Manager.

The individual initiating the Purchase Request is responsible for the accuracy and adequacy

of information supporting the request. Requests should be submitted early enough for the material or service to be obtained when needed.

#### Programming Funds With Funding Agency

Programming projects with a funding agency ensures that the project's objectives align with the funder's priorities, increasing the likelihood of approval. It fosters transparency and accountability by clarifying how resources will be allocated to achieve measurable outcomes. Additionally, collaboration with the agency helps build trust, paving the way for future funding opportunities and sustainable partnerships. The following steps can be vital to ensuring the project has a high success of grant funding. Here are five key steps to programming funds with a funding agency:

1. Research and Alignment  
Identify the agency's funding priorities, guidelines, and objectives to ensure the project aligns with their mission and funding requirements.
2. Develop a Comprehensive Budget  
Create a detailed budget outlining specific costs, allocations, and timelines for each activity to demonstrate responsible financial planning.
3. Collaborative Proposal Development  
Engage with the agency during the planning phase to clarify expectations, refine project goals, and address any concerns, fostering mutual understanding.
4. Performance Metrics and Reporting Plan  
Define measurable outcomes and establish reporting schedules to meet agency requirements for monitoring progress and ensuring accountability.
5. Continuous Communication and Adjustments  
Maintain open channels with the agency throughout the project to report milestones, discuss challenges, and make necessary budget adjustments or scope modifications with their approval.

#### **SACOG Transit Coordination Committee, Metropolitan Transportation Plan, Metropolitan Transportation Improvement Program (MTIP)**

Every four or so years the Sacramento Area Council of Governments (SACOG) prepares a Metropolitan Transportation Plan (MTP). This document contains all transit projects projected for the next 30 years in a general manner. It is very important that El Dorado Transit work with the Transit Coordinating Committee to develop priorities for various state and FTA funding sources to ensure that El Dorado Transit's projects are included in the MTP. Once the projects are in the MTP, each year El Dorado Transit Staff should work with the Transit Coordinating Committee to ensure that projects are moved from the MTP into the Metropolitan Transportation Improvement Plan (MTIP) when they are ready for each stage

of funding from Planning to Project Assessment/Environmental Review (PA/ER) to Project Specifications and Easements (PS&E) and finally to Construction/Acquisition. Each phase of the project requires an appropriate amount of funding and must be inserted into the SacTrak tracking software by El Dorado Transit and approved by SACOG to ensure that the project is programmed appropriately. SACOG prepares a multitude of other studies and programs related to transit which El Dorado Transit staff must monitor carefully to ensure that key projects are also within those other plans. El Dorado Transit should develop a quarterly review of the MTIP to ensure that projects are programmed appropriately. SACOG deadlines should be incorporated into this review as they are critical to meet as projects are tied to limited funding sources and regional air quality plans.

Technical specifications should be obtained for each phase of a project as outlined below.

#### **El Dorado County Transportation Commission Local Transportation Funding Program**

El Dorado County Transportation Commission (EDCTC) is the coordinating entity for a quarter cent sales tax generated in each jurisdiction. Each jurisdiction in El Dorado County utilizes funding for transit, roads, alternatives transportation and miscellaneous other eligible projects. El Dorado Transit staff should work closely with representatives from El Dorado jurisdictions to program these funds for transit operations and transit capital projects.

#### **Purchase Requisition Preparation - Direct**

Purchase Requisitions shall contain appropriate data on price, quantity/frequency, budget cost center, recommended supplier or manufacturer, and a detailed description of the product including any model numbers or part codes.

#### **Sole Source**

If a sole source item is specified, the sole source must be justified in writing and approved by the Executive Director. In some cases, the funding agency may have to approve utilizing a sole source and the Authority will complete any documentation required by said agency.

#### **Development Of Technical Specifications For Equipment/Materials**

- A. Technical Specifications shall be prepared by in-house staff, or depending upon the type of equipment/materials, may be prepared by a consultant.

The originator shall coordinate closely with the requesting department to determine the detailed requirements for the piece of equipment/material required. The description shall include:

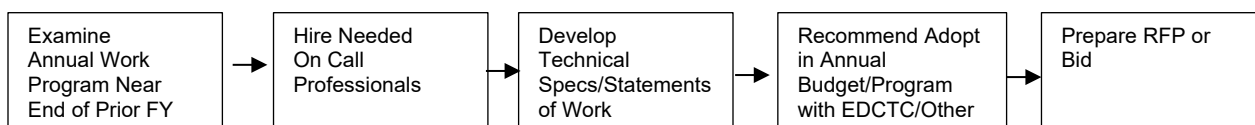
1. A statement of the qualitative nature of the equipment/material to be procured

including form, fit, and function.

2. Minimum essential characteristics and standards required to satisfy its intended use.
  3. Reliability and testing requirements.
  4. Quality control requirements needed to guarantee the required performance and maintenance of the equipment/materials.
- B. The technical specification shall be prepared for the equipment/material/public work, providing adequate detail to ensure that any potential source will be fully apprised of the Authority's requirements. Where possible, the specifications, including performance, form, fit, and function, shall be broad enough to allow as many sources as possible to bid. Product specifications should be in sufficient detail to define requirements, but not to inhibit competition. When it is impractical or uneconomical to develop a clear, accurate description of the technical requirements, a "brand name or approved equal" description may be used to define the performance or other salient features of the requirement. When so used, the specific features which must be met by equipment/material shall be clearly stated. Brand names that are known to meet the "or approved equal" requirements shall be listed.
- C. A market survey may be conducted to determine the source(s) that offer products which meet the requirements. Extreme caution must be exercised to avoid discussions of budgeted dollar amounts.
- D. Where an equipment/material item can be procured from only one source because of patent or proprietary rights, the originator shall prepare a sole source justification, in accordance with the procedures in Chapter 6, in addition to the specification.

#### **Development of Technical Specifications and Statements of Work (Prepared by Requestor)**

The first step in the preparation of a service contract or capital project is the development of technical specifications prepared by staff or utilizing on-call professional consultant and engineers hired in accordance with this manual with expertise to prepare clear concise biddable services, rolling stock and design plans for capital projects. This will ensure accurate responses by bidders facilitating accurate choices based on content, price and will minimize costly change orders that can impact budget and resources. Staff should examine their work plan every year and ensure that on-call professionals are in place in time to prepare technical specifications and statements of work well ahead of when the project must go out to bid.



Technical specifications/statements of work for solicitation of offers, for competitively bid or negotiated procurements, shall describe accurately and in clear, concise language the technical requirements to be met by a contractor in satisfying Authority's needs. These documents shall be in a format that describes, in logical steps, the complete service or item to be delivered for each portion of the total requirement from inception to 100% completion.

Technical Specifications/Statements of Work shall not be directed toward any prospective contractor. Descriptive literature from one prospective contractor shall not be used as the sole basis for writing specifications/statements of work. The requirements set forth in the instructions to Bidders/Proposers shall not contain features that unduly restrict competition.

### **Development of Scope of Work For Professional/Consultant Services**

Solicitations of offers for professional/consultant services shall clearly and accurately set forth all requirements which the bidders must fulfill, including the factors to be used in evaluating the bids or proposals. The scope of work shall be developed by the requesting department and shall contain the appropriate information in the following format:

1. **General.** A broad description of the services and project/program objectives. This section describes the contractor's specific responsibilities and the items i.e., property, materials, etc. that must be furnished by the Contractor.
2. **Applicable Standards.** This part contains a description of all standards the Contractor must fulfill, including federal, state, local and Authority standards that are applicable to the project.
3. **Authority Furnished Data, Property or Services.** This portion contains detailed lists of all data, property, and services which will be provided to the Contractor by the Authority for use in the performance of the Contract.
4. **Specific Task Breakdown.** This portion shall contain, in detail, all tasks the Contractor must perform, and where applicable, should specify step by step instructions and coordination requirements.
5. **Data Submission/Delivery Schedules.** This portion shall specify the data that must be submitted for approval and the schedule requirements for submission/approval to ensure the project progresses in a logical, expeditious manner.

Any firm that assists the Authority in the development of solicitations of offers for professional/consultant services shall be disqualified from bidding on said work.

### **Professional or Consultant Services Contract Requirements**

Purchase Requisitions for professional or consultant services shall have the following documentation attached:

1. A complete and comprehensive Scope of Work.
2. An itemized listing of Evaluation Criteria.
3. Desired delivery schedule (milestones).

Capital Purchase Requests shall identify the Grant Project.

### **Lease vs. Purchase Alternatives**

A Purchase Request for leasing equipment must be accompanied by an analysis addressing the economics of lease vs. purchase. The extent of the analysis should be appropriate to the size and complexity of the procurement.

### **Exceptions**

Certain expenses are routinely incurred without the issuance of purchasing documentation. These expenses typically include the following types of items:

- A. Emergencies coordinated through the Finance Department - A procurement requisition shall be submitted as soon as possible.
- B. Payroll reimbursement, taxes, deductions, and associated benefit payments pursuant to staffing plans and fringe benefit plans.
- C. Fuel and Use Taxes.
- D. Reimbursement of petty cash.
- E. Non-Contract temporary help.
- F. Travel expenses, travel advances and employee expense reimbursements.
- G. Conferences, staff seminars and workshops.
- H. Utilities.
- I. Medical expenses.

- J. Legal expenses.
- K. Insurance.
- L. Routine and re-stocking of office supplies.
- M. Dues & Subscriptions

**Approvals of Purchase Requisitions, Purchase Orders, Blanket Purchase Orders and Petty Cash**

<u>Dollar Limits</u>	<u>Approval</u>
Up to \$25,000	Executive Director or Finance Manager
Over \$25,000	Executive Director with Board of Directors approval

All capital procurements of office furniture and equipment must be coordinated through the Executive Director.

Petty cash shall be limited to a maximum approved by the Authority Board on hand at any one time and shall be held by the Finance Manager. Petty cash should be used only for small, incidental expenses where other payment methods are impractical. Appropriate uses include office supplies, minor equipment repairs, and emergency purchases that require immediate payment. Petty cash should not be used for large purchases, recurring expenses, employee salaries, or personal reimbursements. Petty cash should be securely held in a locked cash box or safe, with access restricted to the Finance Department. The Finance Manager is responsible for maintaining accurate records, tracking disbursements, and ensuring the fund is replenished promptly through a formal request process when it reaches a minimal balance. All petty cash expenses must be documented with receipts and included in a detailed expense report, which must be reviewed and approved by the Executive Director before replenishment.



## CHAPTER 3: METHODS OF PROCUREMENT

Procurement using FTA funds require special circumstances that are specifically outlined in Chapter 15 which may supersede the requirements in Chapter 3.

Purchase Amount	Signing Authority	Goods	Services	Public Works	Payment Methods	Contract	Buy America Build America	DBE
Up to \$15,000	Executive Director, Directors or Designee	Micro	Micro	<b>Bid</b> Davis Bacon Wages over \$2,000	Purchasing Checklist, A/P ACH, Check or Authority Credit Card	No	No  Build America for Construction	No specific requirement other than Authority DBE Goals
\$15,001 - \$25,000	Executive Director or Designee	SPP	SPP	<b>Bid</b> Davis Bacon Wages over \$2,000	A/P ACH or Check  Authority Credit Card (only under special circumstances)	Yes	No  Build America for Construction	No specific requirement other than Authority DBE Goals
\$25,001 - 249,999	Executive Director with Board Approved Budget	SPP	SPP	<b>Bid over \$200,000</b> Davis Bacon Wages over \$2,000	A/P ACH	Yes	FTA Above \$150,000 (See Ch 15)  Build America for Construction	Authority DBE Goals  Depends on Funding Source
\$250,000 and above	Executive Director with Board Approval	RFP Sealed Bid Alt Procure	RFP Sealed Bid Alt Procure	<b>Bid</b> Board Davis Bacon Wages over \$2,000	A/P ACH	Yes	FTA Above \$150,000 (See Ch 15)  Build America for Construction	Authority DBE Goals  Yes
<b>Sole Source</b>	Applies to all categories above as shown in this policy							
<b>Emergency</b>	Applies to all categories above as shown in this policy							
<b>Blanket PO</b>	Office supplies, fuel purchases, utilities, subscriptions, memberships, insurance, employee reimbursements							
<b>Notes:</b>								
<b>Simplified Purchase Process (SPP):</b> Generally, involves less formal procedures and fewer documentation and approvals.								
<b>Three Quotes:</b> Required for purchases between \$15,001 and \$250,000, where applicable.								
<b>Formal RFQ/RFP:</b> Required for detailed procurement processes, including for purchases over \$250,000, with board approval								
<b>Contract Required:</b> Indicates whether a formal contract is necessary, which generally applies for higher amounts and more formal procurement processes.								
<b>Contract Review:</b> Legal compliance, terms and conditions, scope of work, financial terms, risk management and necessary approval.								

### **Procurement by Micro-Purchases**

*Materials, Supplies, Equipment Public Works and Services equal to or less than \$15,000.*

Procurement by micro-purchases are those purchases up to \$15,000. Purchases below that threshold may be made without obtaining competitive quotations if the Authority determines that the price is fair and reasonable based on research, experience, purchase history or other information and documents. This determination and how it was made shall be documented. Such purchases are exempt from Buy America requirements. However, Davis-Bacon prevailing wage requirements will apply to construction contracts exceeding \$2,000. There should be equitable distribution among qualified suppliers and no splitting of procurements merely to come within the micro-purchase limit.

### **Procurement by Small Purchase Procedures**

*Materials, Supplies, Equipment and Services and Public Works that are greater than \$15,000 and less than or equal to \$250,000 (Public Works Projects greater than \$200,000).*

Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property valued greater than \$10,000 but not exceeding \$250,000. If small purchasing procedures are used, price or rate quotations shall be obtained from an adequate number of qualified sources. The Authority must make the determination that the price offered is fair and reasonable utilizing a price or cost analysis. The award is made to the proposer offering the bid or proposal most advantageous to the Authority. Small purchases can be solicited utilizing a quotation that contemplates award to the lowest evaluated price or may consider factors in addition to price. The Request for Quotation shall specify the basis for award consistent with the principles of bidding and competitive negotiations contained herein.

This process is to be documented on the bid record contained in the file documentation. A record indicating the procurement method used, the contract type, why the vendor was selected, what vendors were solicited, and how the price was determined fair and reasonable at a minimum should be documented in the procurement file. Award will be made to the firm that complies with the provisions of the request for quotations and provides the lowest responsive and responsible price or best value to the Authority. Procurements shall not be reduced in size or divided to avoid the additional procurement requirements applicable to larger acquisitions if under \$150,000/\$250,000.

### **Procurement by Formal Purchase Procedures**

*Materials, Supplies, Equipment, Services greater than \$250,000 (Public Works Projects greater than \$200,000).*

Formal Purchases require an appropriate formal competitive procurement process and must

have the approval of the Board of Directors. Technical specifications and requirements will be prepared and submitted to the Executive Director who will prepare and release appropriate Invitations for Bids (IFBs), Request for Proposals (RFPs), or Request for Qualifications (RFQs). Authorization from the Board of Directors is necessary to award an IFB, RFP or RFQ.

A record indicating the procurement method used, the contract type, an independent estimate, why the vendor was selected, and how the price was determined fair and reasonable at a minimum should be documented in the procurement file.

#### **Procurements by Sealed Bids/Invitation for Bid (IFB)**

Bids are publicly solicited, and a firm-fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the overall lowest and best.

**A.** In order for sealed bidding to be feasible, the following conditions should be present:

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

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

- 1.** The invitation for bids will be publicly advertised and bids shall be solicited from an adequate number of known suppliers, providing them sufficient time to prepare bids prior to the date set for opening bids;
- 2.** The invitation for bids, which will include any specifications and pertinent attachments, shall define the items or services sought in order for the bidder to properly respond;
- 3.** A firm fixed-price contract award will be made in writing to the lowest responsive and responsible bidder. When specified in bidding documents, factors such as discounts, transportation costs, and life cycle costs shall be considered in determining which bid is lowest;
- 4.** Payment discounts will only be used to determine the low bid when prior

experience indicates that such discounts are usually taken advantage of; and

5. Any or all bids may be rejected if there is a sound documented business reason.

#### **Procurements by Competitive Proposal/Request for Proposals (RFP)**

The competitive proposal method of procurement is normally conducted with more than one source submitting an offer (i.e., proposal). Either a fixed price or cost reimbursement type contract is awarded. This method of procurement is generally used when conditions are not appropriate for the use of sealed bids. If this procurement method is used the following requirements apply:

1. Requests for proposals will be publicized. All evaluation factors will be identified along with their relative importance.
2. Proposals will be solicited from an adequate number of qualified sources.
3. The Authority will have a method in place for conducting technical evaluations of the proposals received and for selecting awards.
4. Awards will be made to the most responsible firm whose proposal is most advantageous to the Authority's program with price and other factors considered.

#### **Procurement of Architectural and Engineering Services (A&E)**

The Authority will use competitive proposal procedures based on the Brooks Act when contracting for A&E services. Other types of services considered A&E services include program management, construction management, feasibility studies, preliminary engineering, design, surveying, mapping, and services which require performance by a registered or licensed architect or engineer. The Brooks Act requires that:

1. All offeror's qualifications be evaluated;
2. Price be excluded as an evaluation factor;
3. Negotiations be conducted with only the most qualified offeror; and
4. Failing agreement on price, negotiations with the next most qualified offeror be conducted until a contract award can be made to the most qualified offeror whose price is fair and reasonable.

This "qualifications-based procurement method" can only be used for the procurement of A&E services. This method of procurement cannot be used to obtain other types of services

even though a firm that provides A&E services is also a potential source to perform other types of services.

These requirements apply except to the extent any state adopts or has adopted by statute a formal procedure for the procurement of architectural and engineering services.

**Procurement by Noncompetitive Proposals (Sole Source)**

- A.** Sole Source procurements are accomplished through solicitation or acceptance of a proposal from only one source, or after solicitation of a number of sources or competition is determined inadequate. A contract amendment or change order that is not within the scope of the original contract is considered a sole source procurement that must comply with this subparagraph.
  - 1.** Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids, or competitive proposals and at least one of the following circumstances applies:
    - a.** The acquisition of property or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold.
    - b.** The item is available only from a single source.
    - c.** The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
    - d.** FTA and/or Caltrans authorizes a noncompetitive procurement in response to a written request from the Authority; or
    - e.** After solicitation of a number of sources, competition is determined inadequate.
- B.** The Authority must first certify in writing:
  - 1.** That such manufacturer or supplier is the only source for such item; and
  - 2.** That the price of such item is no higher than the price paid for such item by like customers.
- C.** A cost analysis is required to verify the proposed cost data, the projections of the data, and the evaluation of the specific elements of costs and profit.

**Procurement by Design-Build**

Additionally, the California Code, Public Contract Code - PCC § 22160 authorizes the use of

the design-build method of project delivery, using a best value procurement methodology as described in Chapter 4.

### **Cooperative Purchases/Piggybacking**

By California State legislation, the Department of General Services, State Office of Procurement, may act as the buying agent for political subdivisions of the state. The purpose of the State Cooperative Purchase Program is to enable government entities to take advantage of discount prices available through volume purchases.

The Authority may enter into cooperative purchasing agreements with other governmental agencies. When FTA funds are utilized for non-state cooperative purchases, the Authority must comply with piggybacking rules and regulations promulgated by the FTA. In particular, the Authority's estimated quantities must have been contemplated in the original award agreement and the contract must contain an assignment clause that authorizes assignment of contractual rights to the Authority.

### **Options**

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

- A. Evaluation of options. If required in the solicitation, the option quantities or periods contained in the contractor's bid or offer must be evaluated in order to determine contract award. When options have not been evaluated as part of the award, the exercise of such options will be considered a sole source procurement.
- B. Exercise of Options.
  - 1. The Authority must ensure that the exercise of an option is in accordance with the terms and conditions of the option stated in the initial contract awarded.
  - 2. An option may not be exercised unless the Authority has determined that the option price is better than prices available in the market or that the option is the more advantageous offer at the time the option is exercised.

## CHAPTER 4: CREDIT CARD POLICIES

### **Introduction**

The El Dorado Transit Authority credit card is a purchase card system benefiting the Authority and the Authority's authorized user of the credit card by allowing purchases to be made from vendors for certain types of goods and/or services that are not available through other procurement means or from other vendors.

### **Credit Card Policy**

Usage of the Authority's credit card is allowed at the discretion of the Executive Director or Finance Manager to current employees who are granted El Dorado Transit purchasing authority. Delegation of Authority purchasing authority governs the use of the credit card as a tool for purchasing materials and services costing less than \$3,000; use of this card is restricted to the purchasing of those goods or services that **cannot** be procured through normal procedures. All goods and services purchased by the Authority should be acquired through credit extended by the Authority's vendors to the Authority whenever possible and paid by approved invoice within the agreed credit terms of the vendor. This is also applicable to all telephone and internet orders.

The card user agrees to comply with all applicable Authority policies and procedures and this agreement.

### **Compliance with Policy, Violations and Consequences**

Purchases made under this credit card policy and agreement shall comply with all aspects of the Authority's Purchasing Policy.

Card user violations of this agreement or of any policy regarding the purchase of goods or services will be investigated and may result in any or all of the following actions, but not limited to written warning, revocation of credit card privileges, cancellation of delegation of purchasing authority, disciplinary action, termination and/or criminal prosecution. Human error and extraordinary circumstances may be taken into consideration when investigating any violation of this agreement.

The Executive Director or Finance Manager have the authority to investigate and to determine whether a violation of purchasing or credit card policy has occurred and to determine action deemed most appropriate pursuant to applicable law and/or Authority policy.

**Violations of credit card usage include but are not limited to:**

- A. Purchase of items for personal use
- B. Purchase of items in violation of the Authority's travel policy
- C. Use of the credit card for cash advances
- D. Exceeding the credit card account credit line limit
- E. Use of the credit card for purchases of more than \$3000 by splitting similar purchases into more than one transaction
- F. Failure to return the credit card when card user is reassigned, terminated or upon request
- G. Failure to turn in packing slips, receipts or other back up documentation to the Authority Finance Department with monthly credit card statement
- H. Sharing the credit card or card account number with unauthorized users
- I. Ownership and Cancellation of the Credit Card

The credit card remains property of the issuing company. It may not be transferred to, assigned to, or used by anyone other than an authorized user of the Authority. Users of the credit card are accountable for the activity on the card. The issuer or the Authority may suspend or cancel user privileges at any time for any reason. If the user is in possession of a card, the user will surrender the credit card upon request to the Authority or to any authorized agent of the issuer.

**Receipts**

It is the responsibility of each credit card user to obtain transaction receipts from the merchant each time the credit card is used, including telephone and internet charges. Transaction receipts are to be reconciled against the monthly credit card statements promptly once received from the Finance Department. Failure to provide the required documentation for payment processing may subject the user to loss of credit card privileges and may cause the amount charged to be classified as a personal purchase by the card user. The Authority shall keep statement data and proof of reconciliation, including receipts and packing slips, on file for a period consistent with the record retention requirements of the law.

Failure to provide receipts will require direct reimbursement from the authorized user.



### **Disputed Items**

It is each user's responsibility to follow-up on any erroneous charges, returns or adjustments to ensure proper credit is given on subsequent statements.

### **Safeguarding an Issued Credit Card**

An issued credit card or card account number should always be treated with utmost care and should be kept in a secure location and protected from misuse by unauthorized users. When using the credit card for internet purchases, users should ensure that the site utilizes industry recognized encryption transmission tools.

### **Lost or Stolen Credit Cards**

If a credit card is lost or stolen, contact the Authority Finance Department immediately, who will make contact with the issuer and take the appropriate steps to protect the account from unauthorized purchases.

### **Authorization**

Authority employees must receive approval from the Executive Director and/or Finance Manager to have permission to use the Authority's credit cards. Any additions or deletions to this authorized list will require same method of notification.

The credit card may be used only by Authority authorized users who have authority to buy goods and services on behalf of the Authority. Each user is responsible for ensuring safeguard of the credit card information.

The Finance Manager helps ensure the proper use of credit cards by overseeing the Authority implementation and use of the card and/or account number.

### **Responsibility of Credit Card Users**

Authorized employees must use the card responsibly and in accordance with this policy. Credit card user responsibilities include, but not limited to:

- A. Purchasing items for Authority business use only
- B. Never lending or sharing the credit card or card account number with unauthorized users
- C. Purchasing only goods and services that have received prior authorization through following of the Authority's requisition process and which are in accordance with the Authority's Purchasing Policy

- D. Knowing the credit card limitations and restrictions as provided by the Authority Finance Department
- E. Returning the credit card to the Finance Manager, as appropriate
- F. Forwarding proof of purchase documents, such as sales receipts or computer print-outs, to the Finance Department promptly following receipt of monthly credit card statement

#### **Finance Manager Responsibilities for the Credit Card Program**

The Finance Manager and/or designee is responsible for:

- A. Implementation of the credit card use policy
- B. Timely reconciliation of credit card accounts
- C. Appropriate record keeping
- D. Knowing the credit card limitations and restrictions
- E. Developing and implementing internal procedures that govern Authority use of the credit cards
- F. Sharing new program information with authorized users
- G. Answering questions about use of cards
- H. Monitoring card usage to ensure that Authority policies, and internal policies and procedures are being followed
- I. Assigning credit card privileges to authorized users
- J. Communicating with the Executive Director when new or modified cards are necessary and requesting new cards from an approved issuer
- K. Communicating with the Executive Director when card cancellations are necessary and terminating of accounts and individual authority to use cards

## **CHAPTER 5: ALTERNATIVE PROJECT DELIVERY METHODS**

The following alternative project delivery methods apply to both non-FTA and FTA funded projects. Staff should review specific FTA requirements outlined in Chapter 15.

### **Design-Build**

The Authority may procure design-build contracts for public works projects in excess of one million dollars (\$1,000,000) in compliance with federal, state and local requirements. The design-build procurement method consists of contracting for design and construction simultaneously with contract award to a single contractor, consortium, joint venture, team, or partnership that will be responsible for both the project's design and construction. FTA's enabling legislation expressly authorizes the use of FTA capital assistance to support design-build projects "after the recipient complies with Government requirements," 49 U.S.C. Section 5325(d)(2).

### **Procurement Method Determined by Value.**

First, the recipient must separate the various contract activities to be undertaken and classify them as design or construction, and then calculate the estimated total value of each. Because both design and construction are included in a single procurement, the FTA expects the recipient to use the procurement method appropriate for the services having the greatest cost, even though other necessary services would not typically be procured by that method.

- (a) **Construction Predominant.** The construction costs of a design-build project are usually predominant so that the recipient would be expected to use competitive negotiations or sealed bids for the entire procurement rather than the qualification-based “Brooks Act” procurement procedures. Specifically, when construction costs will be predominant, unless FTA determines otherwise in writing, an FTA recipient may not use qualifications-based procurement procedures to acquire architectural engineering, program management, construction management, feasibility studies, preliminary engineering, design, architectural and engineering, surveying, mapping, or related A&E services unless required by State law adopted before August 10, 2005.
- (b) **Design Services Predominant.** In the less usual circumstance in which the cost of most work to be performed will consist of costs for architectural and engineering, program management, construction management, feasibility studies, preliminary engineering, design, architectural engineering, surveying, mapping, or related A&E services, FTA expects the recipient to use qualifications-based procurement procedures based on the “Brooks Act,” 40 U.S.C. Sections 1101 through 1104, California Public Contract Code - PCC § 22160 authorizes the use of the design-build method of project delivery, using a best value procurement methodology.

### **Progressive Design Build**

The Authority may procure progressive design-build contracts and use the progressive design-build contracting process described in the California Public Contract Code - PCC § 22170 et seq. for up to 15 public works projects in excess of five million dollars (\$5,000,000) for each project. Progressive Design-Build means a project delivery process in which both the design and construction of a project are procured from a single entity that is selected through a qualifications-based selection at the earliest feasible stage of the project.

## **CHAPTER 6: CAPITAL PURCHASE PROCEDURES**

### **Determination of Capital Purchases**

Capital purchases consist of items that are:

- A.** Non-expendable tangible property which costs at least \$1,000 and has a useful life of more than one (1) year.
- B.** Costs associated with the construction of buildings and facilities.
- C.** Real property.
- D.** Expendable incidentals, labor force account, overhead and other costs associated with a capital purchase.

All capital purchases should be included in the annual capital budget.

All capital expenditures which are not included in the capital budget must be approved by the Executive Director prior to the commitment of funds.

### **Procedures for Capital Purchases**

- A.** Applicable Project Lead:
  - 1.** Determines purchasing requirement and prepares a Capital purchase requisition using purchase requisition processing as outline in Chapter 2.
  - 2.** Obtains/creates support documents for the purchase requisition as necessary. (Technical specification, Scope of Work, Plans, etc.)
  - 3.** Obtains required approval for the requisition via the Hierarchy of Approval (See Chapter 2).
  - 4.** Reviews the requisition for verification of Funding availability.
  - 5.** Determines method of procurement based on Authority purchasing policies and requirements on the purchase requisition.
    - a.** If \$10,000 or less, purchases item from appropriate source at a price determined as fair and reasonable and documents how the determination was made.
    - b.** If more than \$10,000 and not over \$250,000, obtains price and rate quotations from an adequate number of qualified sources.
    - c.** If greater than \$250,000, conducts independent cost estimate and solicits competitive bids.
  - 6.** Conducts Cost & Price Analysis.
  - 7.** Requests Board approval if needed.

8. Selects Vendor.
- B.** Upon receipt of goods, applicable Staff:
1. Verifies merchandise or material have been received.
  2. Verifies merchandise or material to the corresponding order.
  3. Signs and forwards packing slip/invoice to Accounts Payable.
- C.** DBE Officer (when Applicable)
1. Receives capital check register.
  2. Verifies DBE compliance and forwards to Grants Administrator.
- D.** Finance Department – Accounts Payable.
1. Processes Capital/Grant check payments.

## CHAPTER 6: NON-CAPITAL PURCHASE PROCEDURES

### **Introduction**

This chapter sets forth the procedure for the procurement of non-capital supplies, material, equipment and services. These purchases shall be made competitively except where it is clearly in the best interest of the Authority to accomplish such purchases by less formal methods.

- A. Competition and Price Reasonableness.** Purchases not exceeding \$5,000 may be accomplished without securing competitive quotations if the prices are considered to be fair and reasonable.

Reasonableness of a proposed price may be determined by comparison of the proposed price with:

1. Prices found reasonable on recent previous purchases.
2. Current price lists.
3. Catalogs.
4. Advertisements.

5. Similar items in a related industry.
6. Purchasing Agent's/Buyers knowledge of the item being procured.

Purchases greater than \$5,000 and not exceeding \$250,000 may be accomplished by obtaining price or rate quotations from an adequate number (minimum of two) of qualified sources.

Purchases in excess of \$250,000 require formal competitive bidding.

#### **Procedures for Non-Capital Purchases**

**A. Applicable Project Lead:**

1. Determines purchasing requirement.
2. Obtains support documents for the purchase requisition as necessary. (Technical specification, Scope of Work, Plans, etc.)
3. Obtains required approval for the requisition.
4. Determines method of procurement based on Authority purchasing policies and requirements on the purchase requisition.
  - a. If not over \$5,000, purchases item from appropriate source at a price determined as fair and reasonable, documenting how the determination was made.
  - b. If greater than \$5,000 and not exceeding \$250,000, obtains price or rate quotations from an adequate number (minimum two) of qualified sources.
  - c. If greater than \$250,000, conducts independent cost estimate and competitive bids are solicited.
5. Conducts Cost & Price Analysis.
6. Selects Vendor.

**B. Upon receipt of goods, applicable Staff:**

1. Verifies services or goods have been received.
2. Verifies merchandise or material to the corresponding order.
3. Signs and forwards packing slip/invoice to Accounts Payable.

C. Finance Department – Accounts Payable.

1. Processes payment.

## CHAPTER 7: SOLE SOURCE NON-COMPETITIVE NEGOTIATION

### **Policy**

Consistent with the plans and programs of the Authority, purchase requirements for goods or services estimated to exceed \$250,000 should be competitively bid. Sole Source Non Competitive Negotiation for goods or services shall be allowed only on an exceptional and fully documented basis if: (1) an emergency situation exists requiring immediate action (in order for this authority to be used, the need must be compelling and of unusual urgency), (2) only one vendor exists, (3) upon receiving a single bid or single proposal in response to a solicitation with adequate competition, or (4) SacRT and/or Caltrans authorizes after determining competition was adequate.

### **Justification Procedure**

Each sole source selection decision exceeding \$250,000 must be supported by documentation which justifies the selection of the specified contractor. The following will guide in preparing the sole-source justification:

- A. Solicit offers from as many potential sources as is practicable under the circumstances.
- B. If the Authority decides to solicit an offer from only one source, the Authority will justify its decision adequately, in writing.
- C. Prepare or obtain a cost analysis verifying the proposed cost data, the projections of the data, and the evaluation of the costs and profits.
- D. Submit the proposed procurement to SacRT/Caltrans for pre-award review if SacRT/Caltrans so requests.

### **Procedures for Sole Source Non-Competitive Procurements**

- A. Identify requirements, prepare specifications and process approved Purchase Requisition.
- B. Prepare written sole-source justification.
- C. Develop pre-negotiation objectives.

- D. Solicit price proposal from vendor.
- E. Perform cost and/or price analysis, determine reasonableness of vendor's price and certify that the price is fair and reasonable.
- F. If required, obtain SacRT/Caltrans authorization.
- G. Prepare contract documents.
- H. If grant-funded, review for adherence to SacRT/Caltrans Guidelines.
- I. Forward contract to contractor for execution.

## CHAPTER 8: NEGOTIATION AND SEALED BID PROCUREMENT REQUIREMENTS

### **Introduction**

This chapter outlines the Authority's procedures for competitive bids and negotiated procurements. It is applicable to all equipment and construction procurements of the Authority, over

### **Policy**

All procurement transactions will be conducted in a manner providing full and open competition. Some of the situations considered to be restrictive of competition include, but are not limited to:

1. Unreasonable requirements placed on firms in order for them to qualify to do business;
2. Unnecessary experience and excessive bonding requirements;
3. Noncompetitive pricing practices between firms or between affiliated companies;
4. Noncompetitive awards to any person or firm on retainer contracts;
5. Organizational conflicts of interest. An organizational conflict of interest means that because of other activities, relationships, or contracts, a contractor is unable, or potentially unable, to render impartial assistance or advice to the Authority; a contractor's objectivity in performing the contract work is or might



be otherwise impaired; or a contractor has an unfair competitive advantage;

6. The specification of only a “brand name” product without listing its salient characteristics and not allowing “an equal” product to be offered.
7. Proposals or qualifications leading to a negotiated procurement or competitive bid should be formally advertised and solicited from at least three potentially qualified proposers in order to obtain the greatest possible competition. Authority technical personnel are responsible (with consultant assistance as required) for providing the technical specifications and drawings for equipment, materials and construction contracts.
8. Requesters are responsible for providing additional and special terms and conditions to cover such items as material delivery dates, progress reporting requirements and selective contract controls, together with the technical requirements, to the Finance Department.

#### **Time and Material Contracts**

The Authority will use time and material contracts only:

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

#### **Procedures**

Project Lead is responsible for assembling the Invitation For Bid (IFB) or Request For Proposal (RFP) package. An IFB package includes a bid form covering all items to be bid, technical specifications, the special terms and conditions recommended by the appropriate departments, and any contractual provisions or standard clauses required by the federal government (e.g., EEO compliance, minimum wage rates, bid guarantees and bonding requirements). An RFP contains similar provisions plus a Statement of Work, the contract terms and conditions, and the evaluation criteria that will be utilized to determine Proposer selection.

All IFB's and RFP's shall be based on a clear and accurate description of the technical requirements for the material, product or service to be procured. Such requirements shall not contain features which unduly restrict competition.

All departments and groups involved in the preparation of the bid package, IFB or RFP shall review the portions for which they are responsible. When all reviews have been completed and approvals obtained, Project Lead will issue the final documents.

## **Procedures for Preparation of Solicitation Documents**

The Executive Director or the Designated Employee is fiduciarily responsible for preparation of the IFB/RFP and may utilize staff to implement solicitations on his or her behalf. The RFP will identify for the proposer the types of technical expertise which are required for the particular job. The proposers will then be evaluated on their competence in those areas. The technical criteria must be listed in the RFP so that the proposer is aware of the items and their relative emphasis.

### **A. Prepare a Draft IFB/RFP**

- 1.** Develop the Scope of Work and any required technical specifications, drawings, plans, photographs, etc.
- 2.** Conduct an Independent Cost Estimate to serve as a benchmark for evaluating cost proposals.
- 3.** Establish realistic procurement schedule.
- 4.** Develop and incorporate the appropriate "boilerplate" of Terms and Conditions.
  - a.** If FTA funded, include required clauses and Forms.
  - b.** Check for insurance or bonding requirements.
- 5.** Specify number of proposals to be submitted. (i.e.. An electronic copy, an original and three copies for an RFP Review Committee of three).
- 6.** Specify evaluation criteria.
- 7.** Pre-Bid/Pre-Proposal Conference

If a Pre-Bid or Pre-Proposal Conference is deemed necessary, include this information in the Bid or Proposal solicitation document and schedule a room for this meeting.

The meeting will be chaired by the person responsible for the procurement and will cover at least the following issues:

- Instruction to offerors
- Funding source
- Contract type
- Evaluation Criteria
- Specific points that need to be addressed in Proposals

- DBE goal if established
- Critical dates
- Bonding requirements
- Answer questions regarding the Terms and Conditions of the Agreement/Contract
- Answer questions regarding the Scope of Work, Technical Specs, Plans, etc

### **Addenda**

All changes to IFB/RFP will be made by issuing written Addenda. This Addenda will be issued to all who attended the Pre-Bid or Pre-Proposal Conference or received a Bid or Proposal packet. Receipt of this Addenda must be indicated on the Bid or Proposal form.

### **Guidelines for The Evaluation of Request for Proposals**

Proposals for professional services contracts are evaluated in terms of responsibility and responsiveness by an evaluation team. Emphasis is placed on the technical expertise of the firm, both in terms of past efforts and proposed approach to the project. While price is a consideration, it is not necessarily the determining factor. The objective is to select the firm or individual that can best perform the services or supply the material or equipment most suitable to the Authority after price and other factors have been considered.

Following the receipt of sealed proposals, several steps are normally completed prior to the selection of a firm to do the work.

- A. Proposals are opened privately. Strict confidentiality as to the nature and cost of the proposal are maintained throughout the negotiation process. Only after award of the contract is the successful firm revealed to the public and the terms and conditions made known.
- B. Evaluation Team. In order to evaluate the proposals received, a team is formed that would typically consist of staff members and, on an as needed basis, representatives from other agencies. In some cases independent consultants may be retained to provide particular expertise to the Authority as part of the review team. The team members are to have experience with and responsibility for the disciplines that will be involved with the project. The DBE Officer may also be a member of the team. The review team shall be approved by the Executive Director.
- C. Evaluation Criteria. Included in the RFP is a list of the evaluation criteria which will be used by the evaluation team in reviewing the proposals. Criteria is listed numerically in order of importance (some criteria may have sub-criteria). Typically, the evaluation criteria or factors will relate to the areas of technical expertise, project approach, experience of firms personnel and completeness of response. Project cost may or may not be evaluation criteria.

1. **Project Approach:** The proposer will be evaluated on their understanding of the nature and scope of the work to be performed. The evaluation committee will consider both organization and experience with attention to factors such as:
  - a. Experience and make-up of the firm.
  - b. Experience of key personnel assigned to the project.
  - c. Experience with government agencies.
  - d. Experience with transit projects.
  - e. Past achievements.
  - f. Commitment of key personnel to the project.
  - g. Suitability of equipment/service to the Authority.
2. **Disadvantaged Business Enterprise:** Bids or Proposals that do not meet or exceed established DBE goals and it is determined good faith efforts were not sufficient, the Bid/Proposal may be considered non-responsive.
3. **Cost and Price Information:** The following criteria will be used in the evaluation of cost proposals.
  - a. Clarity and visibility of proposed cost breakdown for the proposal and its subcontractors and sub-consultants.
  - b. Credibility of labor hours and dollar cost estimates when related to the proposed project approach.
  - c. Total price.

The Authority will require finalists to submit evidence to ensure the proposer's financial capability to perform the effort required by the RFP.

- D. Evaluation Form.** An evaluation form will be used by team members in evaluating the proposals. The form must be based on the criteria listed in the RFP.

The evaluation team members individually evaluate the proposals and fill out the evaluation form. A team meeting is held to discuss individual evaluations and determine a consensus ranking and decide how many proposers are to be invited for oral interviews. The number interviewed varies depending on the size and importance of the project and the quality of proposals received. Oral interviews are not

mandatory.

- E. Oral Interviews. The team members prepare a list of questions that they may ask the proposers during the oral interviews. These questions generally address items that are not sufficiently covered by the proposers in the proposals, or that require further clarification.
- F. Selection. Upon completion of the interview, the evaluation team members re-evaluate their original recommendations and discuss the oral performance of the proposers and their previously submitted proposals. A final selection is then made based on oral performance; proposal evaluation of responsiveness and responsibility; and telephone reference information. The selection of the single source or several sources deemed within the competitive range is then used for cost and/or price negotiations in the recommended order of selection. Evaluators will substantiate each rating with a brief narration explaining their evaluation.

#### **Negotiation with the Selected Proposer or Proposers within a Competitive Range**

- A. Establish initial meeting with selected Proposer.
- B. Provide detailed information to Proposer consisting of:
  - 1. Detailed schedule for negotiations and contract execution.
  - 2. Discuss proposed contract type.
  - 3. Discuss and/or provide any new or additional information available regarding the project.
  - 4. Solicits "Best And Final Offer".
- C. Request the following information from the Proposer:
  - 1. Name, address, and phone number of any federal or state agency which has audited the contractor's direct and indirect rates in the past two years. Provide a copy of any written approvals or agreements which may exist.
  - 2. Labor rates by job classification and the basis of the rates.
    - a. Full disclosure of proposed rates.
    - b. List of overhead accounts and dollar amounts for each.
  - 3. Basis of application and allocation.

- a. Identify and explain any recent changes or deviation in burden formulation.
- 4. Insurance certificates are required prior to contract execution.
- D. Determine the need, utility, and availability of a pre-contract audit. Company preference is in the order of the following list:
  - 1. Use current, existing audit information from federal or state agency.
  - 2. Obtain new audit through a third party.
  - 3. Perform desk audit of information obtained from Proposer.
  - 4. Debrief unsuccessful proposers as needed.

#### **Documentation (Procurement Summary)**

Procurement Summary shall include but not be limited to the rationale for:

- A. Method of procurement rationale.
- B. Selection of contract type.
- C. Reason for contractor selection.
- D. Basis for the contract price.
- E. Cost and Price Analysis.
- F. Changes to standard terms and conditions.
- G. Unusual circumstances or agreements.
- H. Determination that the Contract Amount is fair and reasonable.

The Authority will use time and material type contracts only after a determination that no other type of contract is suitable; and, if the contract specifies a ceiling price that the contractor shall not exceed except at its own risk.

#### **Contract Preparation**

The Executive Director (or designee) in coordination with the Authority Legal Counsel will prepare the negotiated contract and review for accuracy and completeness. This review

should verify the following:

- A. Placement of Insurance and Claims requirements on program sheet.
- B. Consistency of prices with:
  - 1. Award Page.
  - 2. Consideration Article.
  - 3. Cost and Price Analysis.
- C. Contract documents are complete and properly listed on the Award Page.
- D. Contractor's name is consistent on all pages.
- E. Period of Performance is consistent on Award page and performance Article.
- F. Index is completed to match the Articles.
- G. Contract must be signed by Contractor's authorized representative/s and the Authority's Executive Director.

In addition, the Project Lead and Finance Manager (or designee) shall:

- A. Prepare Purchase Requisition and verify amount is sufficient.
- B. Prepare two (2) duplicate originals of Contract and transmittal letters.
- C. Review final contract and letter.
- D. Mail to Contractor.
- E. Follow up progress with Contractor.
- F. Prepare transmittal letter for signature.
- G. Mail fully executed contract and transmittal letter.
- H. Make internal distribution

### **Confidentiality of Proposals**

Information on the Proposer's financial status will be withheld from public review if submitted under separate cover with a request for confidentiality unless a court of competent jurisdiction orders disclosure.

### **Guidelines for the Evaluation of Sealed Bids**

An Invitation For Bid is formally advertised in local and/or national newspapers, magazines or trade publications. In addition, bid lists, DBE Directory and letters of interest are reviewed for qualified/interested vendors.

- A. Sealed bids are received and opened at time and place specified in IFB. Bids are opened publicly and bid amounts become knowledge of all bidders.
- B. Bidders may not modify bids after they have been opened. Bid price offered is a "best price offer".
- C. Bid bonds, if required, must accompany bid.
- D. In awarding bid, consideration will be given to price, financial responsibility of the bidder, responsiveness to the IFB, suitability of the labor and/or material offered and DBE participation, if requested.
- E. In the event a single bid is received, the Authority may conduct a price or cost analysis of the bid. A price analysis is the process of examining the bid and evaluating the separate cost elements. Where it is impossible to obtain a valid price analysis, it may be necessary for the Authority to conduct a cost analysis of the bid price.
- F. Firm fixed price contract is awarded.

### **Contract Cost and Price Analysis for Every Procurement Action**

The Authority will perform a cost or price analysis in connection with every procurement action, including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the Authority will make independent estimates before receiving bids or proposals.

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

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

- B. Price Analysis. A price analysis may be used in all other instances to determine the reasonableness of the proposed contract price.



- C. Profit. The Authority will negotiate profit as a separate element of the price for each contract in which there is no price competition and, in all cases, where cost analysis is performed. To establish a fair and reasonable profit, consideration will be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.
- D. Federal Cost Principles. Costs or prices based on estimated costs for contracts under grants will be allowable only to the extent that costs incurred, or cost estimates included in negotiated prices are consistent with Federal cost principles. The Authority may reference its own cost principles that comply with applicable Federal cost principles.
- E. Cost Plus Percentage of Cost Prohibited. The cost plus a percentage of cost and percentage of construction cost methods of contracting shall not be used.

#### **Payment Provisions in Third Party Contracts**

- A. Advance Payments. FTA does not authorize and will not participate in funding payments to a contractor prior to the incurrence of costs by the contractor unless prior written concurrence is obtained from FTA.
- B. Progress Payments. The Authority may use progress payments provided the following requirements are followed:
  - 1. Progress payments are only made to the contractor for costs incurred in the performance of the contract.
  - 2. When progress payments are used, the Authority must obtain title to property (materials, work in progress, and finished goods) for which progress payments are made. Alternative security for progress payments by irrevocable letter of credit or equivalent means to protect the grantee's interests in the progress payments may be used in lieu of obtaining title.
- C. Prompt Payment To Subcontractors. Contractor must pay subcontractors for satisfactory performance of their contracts no later than 10 days from the receipt of payment made to the contractor by the Authority. Prompt return of retainage payments from the contractor to the subcontractor(s) will be made within 15 days after the subcontractor's work is satisfactorily completed.

Any delay or postponement of payment among the parties may take place only for good cause and with the Authority's prior written approval. If the contractor

determines the work of the subcontractor to be unsatisfactory, it must notify the Authority immediately in writing and stating the reasons. Failure by contractor to comply with this requirement will be construed to be a breach of contract and subject to contract termination.

### **Liquidated Damages Provisions**

The Authority may use liquidated damages if it may reasonably expect to suffer damages (increased costs on project involved) from late completion and the extent or amount of such damages would be difficult or impossible to determine.

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

Liquidated damages may be applied if a contractor fails to achieve Disadvantaged Business Enterprise (DBE) goal established by the Authority at time of contract award or later modified, the contract payments will be reduced as liquidated damage and not as a penalty by an amount equal to the mathematical dollar difference between the total contract amount multiplied by the DBE percentage goal and the actual dollar amount of documented DBE participation in the contract.

### **Use of GSA Schedules And Excess Or Surplus Federal Property**

The Authority may use Federal supply schedules (FSS) of GSA for the procurement of certain goods and services. Price lists are available from participating GSA contractors and may include an administrative fee for GSA in the price of items on the schedule. The Authority must contact GSA for guidance on using the GSA supply schedules.

The Authority is encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property, whenever such use is feasible and reduces project costs.

### **Intergovernmental Procurement Agreements**

To foster greater economy and efficiency, the Authority is encouraged to enter into State and local intergovernmental agreements for procurement or use of common goods and services. The requirements and standards of this manual apply to procurements entered into under such agreements using FTA funds. Competition requirements will be met with documented procurement actions using strategic sourcing, shared services, and other similar procurement arrangements.

### **Cargo Preference--Use of United States-Flag Vessels**

The Authority agrees to comply with U.S. Maritime Administration regulations, "Cargo

Preference - U.S. Flag Vessels in FTA funded projects, to the extent those regulations apply to procurement of equipment, materials, or commodities suitable for transport by ocean vessel.

#### **Preference for Recycled Products**

To the extent practicable and economically feasible, the Authority agrees to provide a competitive preference for recycled products in FTA funded projects pursuant to U.S. Environmental Protection Agency guidelines.

#### **Use of Value Engineering in Construction Contracts**

The Authority may use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lowest cost.

#### **Awards to Lowest Responsive, Responsible Contractor**

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

#### **Advertisement of IFBs and RFPs**

A notice of an Invitation for Bid or Request for Proposal will be prepared by the Authority and will be advertised as a public notice and mailed to an adequate number of known vendors listed in the Authority's vendor file and other available directories.

Public notice must be published in a newspaper of general circulation in sufficient time prior to the date set for IFB/RFP closing. The notice must include the following minimum information:

- A. A general description of the service or goods to be purchased.
- B. The location of the bid forms and detailed specifications.
- C. Time and location of any Pre-Proposal or Pre-Bid Conference.
- D. The IFB/RFP submittal location and time and date.

## CHAPTER 9: CONTRACT ADMINISTRATION

### **Role of the Executive Director**

The Executive Director shall be the authorized representative of the Authority and shall assume the primary role for purposes of communicating with all vendors, suppliers, and contractors as to the commencement and progress of the contract. The Executive Director may, depending upon the peculiarities of the specific procurement, assign this responsibility to the Project Manager or any other appropriate employee, hereafter referred to as the Designated Employee. This delegation of authority shall be made known to the vendor, supplier, or contractor involved.

The role of the Executive Director/Designated Employee in reference to contract administration can be divided into the following areas:

- A.** Performance Monitoring - Ensure that the supplier provides the goods and services desired at the appropriate location and time.
- B.** Financial Monitoring - Ensure that the supplier provides the product at the required price and component costs with all other financial considerations met.
- C.** Compliance Monitoring - Ensure that the supplier complies with the terms and conditions of the agreement.
- D.** Self-Certification - Ensure “self-certification” in the Annual Certification/Assurance process.
- E.** Master Agreement – Ensure that the Authority refers to “Master Agreement” which contains a comprehensive list of the requirements applicable to the FTA program, including procurements.
- F.** Forms Submittal - Ensure that the following forms, as applicable, are received before contract award:
  - 1.** Debarment and Suspension – The Authority will refrain from awarding any third party contract of any amount with a party included in the “U.S. General Services Administration’s (U.S. GSA) List of Parties Excluded from Federal Procurement or Non- procurement Programs”, implementing Executive Orders Nos. 12549 and 12689, “Debarment and Suspension”. Before entering into any sub-agreement with a sub- recipient, the Authority agrees to obtain a debarment and suspension certification from each prospective sub-recipient containing information about the debarment and suspension status and other specific information about the sub-recipients and its “principals”. Before entering into any third-party contract

exceeding \$100,000, the Authority agrees to obtain a debarment and suspension certification from each third-party contractor containing information about the debarment and suspension status of that third party contractor and its “principals”. The Authority will require each third-party contractor to refrain from awarding any third-party subcontract of any amount (at any tier) to a debarred or suspended subcontractor, and to obtain a similar certification from any third-party subcontractor (at any tier) seeking a contract exceeding \$100,000.

2. Interest of Members of or Delegates to the United States Congress – The Authority will not admit any member of or delegate to the United States Congress to any share or part of the Project or any benefit derived there from.
3. Bonus or Commission – The Authority will affirm that it has not paid, and agrees not to pay, any bonus or commission to obtain approval of its Federal assistance application for a project.
4. Restrictions on Lobbying – The Authority will not use Federal assistance funds to support lobbying. The FTA will not make any Federal assistance available to the Authority until FTA has: (a) received Authority’s certification that the Authority has not and will not use Federal appropriated funds to pay any person or organization to influence an officer or employee of any Federal department or agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal grant, cooperative agreement, or any other Federal award from which funding for the project in originally derived, and (b) the Authority’s statement disclosing any lobbying with non-Federal funds that has taken place in connection with obtaining any Federal financing ultimately supporting the project. The Authority will provide FTA a copy of each lobbying disclosure statement with the accompanying lobbying certification provided by a prospective third-party contractor at any tier or sub-recipient at any tier.
5. Buy America – The Authority will comply with FTA’s Buy America regulations 49 C.F.R. Part 661, and any amendments thereto, and any implementing guidance issued by FTA, with respect to each third-party contract financed by the Grant Agreement or Cooperative Agreement.
6. Build America, Buy America – The Authority will comply with FTA’s Build America, Buy America regulations 2 C.F.R. Part 184, and any amendments thereto, and any implementing guidance issued by FTA, with respect to each third-party contract financed by the Grant Agreement or Cooperative Agreement.
7. Bidders List of Participating Firms – The Authority will maintain a bidders list to count all firms that are participating in, or attempting to participate in all DOT assisted contracts as required in 49 CFR Part 26 §26.11.

8. Levine Act - The Authority prohibits any Authority Board Member from participating in any action related to a contract, if he or she receives any political contributions totaling more than \$500, or the amount defined by Government Code Section 84308, from the person or company awarded the contract within the previous twelve months, and for three months following the date a final decision concerning the contract has been made. The Levine Act also requires a member of the Authority Board who has received such a contribution to disclose the contribution on the record of the proceeding.

### **Maintenance Of Procurement Records**

The Authority shall maintain a procurement contract file for each Authority contract. This file shall contain all records that sufficiently document the significant chronology of the contract, including all formal and informal communication between the Authority and the vendor, supplier, or contractor. The file shall include but not be limited to the following records:

- A. Any and all documents evidencing the rationale for the method of procurement.
- B. Any and all documents relating to the selection or rejection of vendor, supplier, or contractor.
- C. Any rationale for selection of the contract type.
- D. The basis for the contract price.

### **Contract Amendments and Change Orders**

- A. Contract amendments shall be used pursuant to any changed Article in the basic contract when it becomes necessary to change the contract cost and/or fee, Statement of Work, Period of Performance, or any other mutually agreeable change to the Contract. All Contract Amendments must be executed in writing by the authorized representative of the Contractor and the Authority.

Additions and/or increases in the Scope of Work may constitute a new procurement either by exceeding authorized procurement thresholds identified in this manual or if they are found to significantly differ in content and, as such, will be processed in the prescribed manner or the additional requirements may be formalized by Contract Amendment. The Project Manager shall coordinate the requirement for a Contract Amendment as soon as the need is known and shall provide the necessary documentation to permit the Amendment to be processed in the most expeditious manner to prevent delays in the Project Schedule.

The minimum documentation required to formalize a Contract Amendment is as follows:

1. A properly executed Purchase Requisition (for changes to Contract Price).
  2. A revised Statement of Work, is appropriate.
  3. Technical Evaluation of Contractor's proposal.
  4. Procurement Summary with Cost and/or Price Analysis.
- B.** Change Orders. Under certain unforeseeable conditions it may become necessary to redirect the Contractor's effort to prevent an adverse impact on the Project. In such instances, the Authority may issue directions by a unilateral "Change Order." If such a direction causes an increase or decrease in the estimated cost and/or fee, a change in the Period of Performance, or affects any other provision of the Contract, the Change Order shall be incorporated into the Contract by formal Contract Amendment in the most expeditious manner possible.

#### **Contract Closeout Procedures**

- A.** Non-Construction Contracts may include the following:
1. Ensure that contract files are closed in a timely manner and the close-out actions are documented.
  2. Prior to the contract completion date, contact the Project Manager to confirm that no contractor effort will be required after the specified contract completion date. Whenever possible, this action shall be initiated at least 60 days prior to the specified completion date. If the contract will be completed on schedule, proceed with contract closure, otherwise, if necessary, extend the contract.
  3. Cost and/or fees withheld in accordance with contract provisions shall not be released to the Contractor until the Contractor has completed the required closing documents, made final disposition of Authority property, and reached final agreement with the Authority regarding the amount of final payment due. Withheld costs and/or fees shall be included in the final payment.
  4. Upon confirmation of pending contract completion, determination of whether a final contract audit is required. Final negotiations of indirect rates and disputed costs shall be based on the final audit.
- B.** Construction Contract. Authority Project Manager shall assure the following:
1. The date of substantial completion with the contractor shall be established at the contract signing.

2. The Architect/Engineer (A/E), Project Manager, or Inspector of Record will be instructed by the Authority Project Manager to provide a Punch List.
3. The Authority Project Manager reviews the A/E Punch List and adds or deletes appropriate items.
4. Authority Project Manager indicates which items on the Punch List require completion before "Notice of Substantial Completion" will be recorded. The Punch List is then transmitted to the General Contractor (GC) for action.
5. A/E Project Manager or Inspector of Record to verify all Punch List items have been addressed. Authority Project Manager to review and approve.
6. Upon completion of the above referenced items, Authority Project Manager shall prepare a record of "Notice of Substantial Completion." The contract time shall conclude as of this date and the Authority may take occupancy of the premises.
7. The GC will complete administrative documents including items such as certified payrolls, as-builds, warranties, and lien releases. These documents will be transmitted to the A/E for review.
8. Authority Project Manager to review the final change order, accounting data, administrative documents, completed Punch List prior to approval of final payment.
9. Authority Project Manager to prepare and record "Notice of Final Acceptance."

#### **Responsibility for Settlement of Contract Issues/Disputes**

The Authority alone will be responsible in accordance with good administrative practices and sound business judgment for the settlement of all contractual and administrative issues arising out of procurements.

These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the Authority of any contractual responsibility under its contracts.

#### **Contract Termination**

The performance of work under a contract may be terminated in part or in whole when the Authority determines that such termination is in the best interests of the Authority. Contracts may be terminated for convenience, i.e., a reduced need or in the best interests of the Authority, or for default, i.e., the Contractor has failed to perform in accordance with the contractual requirements.



When the decision to terminate a contract is made, a "Notice of Termination" shall be sent to the Contractor by Certified Mail, Return Receipt Requested. The Notice of Termination shall specify the reason for the termination, the extent to which the performance of work is terminated, i.e., in whole or in part, and the day upon which such termination becomes effective.

After issuance of a Notice of Termination, pursuant to the Termination/Default Article(s) of the Contract, settlement of claims, etc. shall be accomplished as soon as possible to protect the interest of and minimize the liability of the Authority.

### **Prohibition Against Geographic Preferences**

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

## **CHAPTER 10: BONDING REQUIREMENTS**

### **Bonding**

- A.** Capital. For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold, greater than \$250,000, the Authority may accept its bonding policy relating to bid guarantees, performance bonds, and payment bonds provided that the Authority grantee 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:
  - 1.** A Bid Guarantee Bond from each bidder equivalent to ten percent (10%) of the bid price. The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.
  - 2.** A Performance bond for one hundred percent (100%) of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.
  - 3.** A Payment bond on the part of the contractor for one hundred percent (100%) of the contract price. A "payment bond" is one executed in connection with a contract to

assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

- B.** Bonding/Non-Capital. The Authority may ask for bonds, anytime it is in the best interest to do so.

## **CHAPTER 11: CONTRACTING WITH SMALL AND MINORITY BUSINESSES, WOMEN'S DISADVANTAGED BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS**

The Authority shall 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:

- 1.** Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- 2.** Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- 3.** 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;
- 4.** Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
- 5.** 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
- 6.** Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) of this section.

## **CHAPTER 12: FEDERAL AWARDING AGENCY REVIEW**

**(a)** The Authority shall make available, upon request of the Federal awarding agency or pass-through entity, technical specifications on proposed procurements where the Federal awarding agency or pass-through entity believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the non-Federal entity desires to have the review accomplished after a solicitation has been developed, the Federal awarding agency or pass-through entity may still review the

specifications, with such review usually limited to the technical aspects of the proposed purchase.

**(b)** The Authority shall make available upon request, for the Federal awarding agency or pass-through entity pre-procurement review, procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates, when:

- (1)** The Authority's procurement procedures or operation fails to comply with the procurement standards in this part;
- (2)** The procurement is expected to exceed the Simplified Acquisition Threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation;
- (3)** The procurement, which is expected to exceed the Simplified Acquisition Threshold, specifies a "brand name" product;
- (4)** The proposed contract is more than the Simplified Acquisition Threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or
- (5)** A proposed contract modification changes the scope of a contract or increases the contract amount by more than the Simplified Acquisition Threshold.

**(c)** The Authority is exempt from the pre-procurement review in paragraph (b) of this section if the Federal awarding agency or pass-through entity determines that its procurement systems comply with the standards of this part.

- (1)** The Authority may request that its procurement system be reviewed by the Federal awarding agency or pass-through entity to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews must occur where there is continuous high-dollar funding, and third-party contracts are awarded on a regular basis;
- (2)** The Authority may self-certify its procurement system. Such self-certification must not limit the Federal awarding agency's right to survey the system. Under a self-certification procedure, the Federal awarding agency may rely on written assurances from the Authority that it is complying with these standards. The Authority must cite specific policies, procedures, regulations, or standards as being in compliance with these requirements and have its system available for review.

## CHAPTER 13: PROTEST PROCEDURES

As a recipient of Federal assistance for the financing of its procurements, the Authority complies with all applicable Federal and State Third Party Contract provisions. Third Party

Contract refers to a recipient's contract with a vendor or contractor, including procurement by purchase order or purchase by credit card, which is financed with Federal assistance awarded by the Federal Transit Administration (FTA).

In accordance with applicable FTA Circular 4220.1F Third Party Contracting Guidance and the "Common Grant Rules" (California Department of Transportation, 49 CFR Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments), the Authority assumes responsibility for resolving all contractual and administrative issues arising out of their third party procurements, including source evaluation and selection, including protests of awards, disputes, and claims. The Authority uses good administrative practices and sound business judgment for resolving all contractual/administrative issues and establishes herein the appropriate alternative dispute resolution procedures. Neither FTA nor the Common Grant Rules relieve the Authority of any responsibility under its contracts to resolve disagreements that may arise in the course of contract formation or contract administration.

The Executive Director is the official responsible for making final determination regarding protests on behalf of the Authority. Responses/determinations concerning protests submitted in accordance with the applicable FTA guidance and Authority policy will be made in writing to the protester. As the responsible official, the Executive Director determination shall be final.

### **Procedures**

A protest is a potential bidder's or contractor's remedy for correcting a perceived wrong in the procurement process. There are three basic types of protests, based on the time in the procurement cycle when they occur:

- 1) A **pre-bid** or solicitation phase protest is received prior to the bid opening or proposal due date.
- 2) A **pre-award** protest is a protest against making an award and is received after receipt of proposals or bids, but before award of a contract.
- 3) A **post-award** protest is a protest received after award of a contract.

All protests must be submitted in writing via mail or e-mail addressed to the Project Lead as described in the bid documents

Required Contents - In order to be deemed substantive, a written pre-bid protest must include at a minimum the name of the protester; the applicable solicitation title, number or description; statement of grounds for the protest; adequate contact information and preferred delivery method for the response/determination.

The El Dorado County Transit Authority Board of Directors has the ultimate responsibility for awards made to a vendor or contractor financed with Federal assistance awarded by the FTA or otherwise subject to Federal and State Third Party Contract provisions.

**Request for Reconsideration** – The Authority will allow for submission of a request for reconsideration if data becomes available that was not previously known, or there has been an error of law or regulation. Requests for reconsideration should be submitted in writing within five (5) working days of the date the protester learned or should have learned of an error or other basis of appeal.

**Pre-Bid Protests** - Unless otherwise explicitly stated in the public solicitation document, the deadline for the submission of a pre-bid protest shall be the close of normal business hours, no later than ten (10) working days after the publication/release date of the respective solicitation document(s). In instances where a solicitation document expresses a specific date and/or time deadline for submission of pre-bid protest, the published deadline shall take precedent over the ten (10) working day policy.

**Responses** - The Executive Director shall issue a written decision on the protest prior to opening of proposals. A response to any substantive questions received by the Authority may be sent to all interested parties or otherwise published as an addendum to the original solicitation.

**Pre-Award Protests** – To be considered, a pre-award protest must be received within 15 calendar days after the staff recommendation for award has been made available to the public.

**Responses** - The Project Lead shall respond prior to final award.

**Post-Award Protests** – To be considered, a post-award protest must be received prior to the close of business, within five (5) working days of the date the protester learned or should have learned of an adverse decision or other basis of appeal.

**Responses** - The Project Lead shall respond in a timely manner. Protests dealing with restrictive specifications or alleged improprieties in a solicitation must be filed no later than ten (10) working days prior to the bid opening or closing date for receipt of proposals. Any other protest must be filed no later than three (3) working days after:

1. Notification of Intent to Award is issued for award of contract if the contract is awarded by the Authority Board per staff recommendation; or
2. Notification of Award is issued if the Authority Board has delegated award authority to the Project Lead or the Authority Board does not award the contract according to the Notification of Intent to Award.

The protest shall identify the protestor, contain a statement officially declaring a protest and describing the reasons for the protest, and provide any supporting documentation. Additional materials in support of the initial protest will only be considered if filed within the time limit specified above. The protest shall indicate the ruling or relief desired from the Authority.

### **Requirements for the Protester**

The protester must:

- 1) Qualify as an “Interested Party.”** Only an “Interested party” qualifies for FTA review of its appeal. An “Interested Party” is a party that is an actual or prospective bidder whose direct economic interest would be affected by the award or failure to award the third-party contract at issue.
  - a) Subcontractors.** A subcontractor does not qualify as an “Interested Party” because it does not have a direct economic interest in the results of the procurement.
  - b) Consortia/Joint Ventures/Partnerships/Teams.** An established consortium, joint venture, partnership, or team that is an actual bidder and acting in its entirety, would qualify as an “interested party” because it has a direct economic interest in the results of the procurement. An individual member of a consortium, joint venture, partnership, or team, acting solely in its individual capacity, does not qualify as an “interested party” because it does not have a direct economic interest in the results of the procurement.
  - c) Associations or Organizations.** An association or organization that does not perform contracts does not qualify as an “interested party,” because it does not have a direct economic interest in the results of the procurement.
- 2) Exhaust Administrative Remedies.** The protester must exhaust its administrative remedies by pursuing the Authority’s protest procedures to completion.

## **CHAPTER 14: DEFINITIONS**

**ACCEPTANCE**: The formal written acceptance by the Authority.

**ADDENDA**: Written interpretations or revisions to Invitations for Bids or Requests for Proposals issued by the Authority before the bid or proposal opening.

**BID**: Offer of the Bidder for the work when submitted on the prescribed Bid Form, properly signed and guaranteed, including the schedule of bid items.

**BID DOCUMENTS AND SPECIFICATIONS:** A set of documents issued by the Authority for the intended work, which includes but is not limited to the Advertisement of Invitation for Bids; Instructions to Bidders; Bid Form; Contractor's Certification; Contract Form; Index to Contract Drawings; Prevailing Rate Schedule; Project Labor Agreement; General Conditions; Contract Drawings; Technical Specifications; and Addenda.

**BID SAMPLES:** Sample required by the Authority to be furnished by a Bidder as part of its bid showing the characteristics of a product offered in its bid in order to assure procurement of an acceptable product. These samples are required only when there are certain characteristics of the product which cannot adequately be described in the Specifications.

**BID SECURITY:** The certified check of Bidder's Bond accompanying the bid submitted by the bidder, as a guarantee that the Bidder will enter into a contract with the Authority for the performance of work and that it will file the required bonds and insurance if the Contract is awarded to the Bidder.

**BIDDER:** Any individual, firm, partnership, corporation, or combination thereof, submitting a bid for the work contemplated, acting directly or through a duly authorized representative.

**BIDDER'S FILES:** A compilation by the Authority of prospective Bidders, the names and addresses of which are recorded according to subject matter, obtained from request for inclusion in the Bidder's Files, listing of bid package holders and bidders of previous procurements, Disadvantaged Business Directories, yellow pages, and sources suggested by technical staff and consultants.

**BLANKET PURCHASE ORDER:** A Purchase Order covering an extended period of time from one vendor, within the same Fiscal Year.

**BOARD OF DIRECTORS:** The governing body of the Authority consisting of five (5) directors who exercise and perform all powers, duties, functions, rights, and privileges vested in them pursuant to the By-Laws of the Authority.

**BRAND-NAME PRODUCT:** A commercial product described by brand name and make, model number, or other appropriate nomenclature by which the product is offered for sale to the public by the particular manufacturer, producer, or distributor. The brand name is used by the Authority only for the purpose of establishing identification and a general description of the item.

**CALIFORNIA MULTIPLE AWARD SCHEDULES (CMAS):** The California Multiple Award Schedules (CMAS) program, managed by the California Department of General Services, is a procurement tool that allows state and local government agencies to purchase products and services from pre-approved vendors. CMAS ensures that prices are fair, reasonable, and competitive, often reflecting pre-negotiated or pre-bid terms.

**CHANGE ORDER:** A Change Order is a written document prepared by the Authority reflecting the agreement between the Authority and Contractor for: a change in the terms or conditions of the Contract, if any; a specific Scope Change in the Work; the amount of the adjustment, if any, in the Contract Sum; and the extent of the adjustment, if any, in the Contract Time.

**CHANGE ORDER REQUEST:** A Change Order Request is a written document originated by the Contractor, which describes an instruction issued by the Authority after the effective date of the Contract, which the Contractor believes to be an Unanticipated Scope Change that may result in changes to the Contract Sum or Contract Time or, which describes the need for or desirability of a change in the Work proposed by the Contractor.

**CONTRACT:** Establishment of a bidding legal relationship obligating the seller to furnish property or services (including construction) and the buyer to pay therefore. It includes all types of commitments which obligate the Authority to an expenditure of funds and which are in writing. It includes all actions resulting from acceptance of offers by awards, notices of award and purchase orders. The Contract becomes effective by written acceptance or performance.

**CONTRACT ADMINISTRATION:** A system for ensuring that Contractors conform within the terms, conditions, and specifications of the Contract and for assuring adequate and timely follow-up.

**CONTRACT MODIFICATIONS:** Any written alteration in the specifications, delivery point, rate of delivery, contract period, price quantity, or other contract provision of an existing contract, whether accomplished by unilateral action in accordance with a contract provision or by a mutual action of the parties to the contract. It includes: (a) bilateral actions, such as amendments and change orders, and (b) unilateral actions such as change notices, notices of termination, and notices of the exercise of an option.

**CONTRACT DRAWINGS:** The official plans, profiles, typical cross-sections, general cross-sections, elevations, and details listed or referenced in the Specifications or amendments thereto; and supplemental drawings approved by the Authority, which show the locations, character, dimensions, and details of the work to be performed.

**CONTRACT SCOPE:** Brief narrative of the objectives of the contract.

**CONTRACTING OFFICER:** The "Contracting Officer" is the Executive Director of the Authority or such person(s) as he shall designate to act in his behalf in writing. Whenever the term "Contracting Officer" shall appear in this document, the term shall also include his designate(s).

**CONTRACTOR:** The "Contractor" is the person or organization identified as such in the



Contract Documents and is singular in number. The term "Contractor" means the Contractor or its authorized representative. The term "Contractor" also means the "third party" for purposes of these procedures which involve Federal Grant Contracts.

**CONSTRUCTION CHANGE DIRECTIVE:** A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order. The Authority may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, the Contract Sum and Contract Time being adjusted accordingly. (Construction Contracts only.)

**COST ANALYSIS:** Review and evaluation of a Contractor's cost or pricing data and of the judgmental factors applied in projecting from the data to the estimated costs. A cost analysis is performed in order to form an opinion of the degree to which Contractor's proposed costs represent what performance of the Contract should cost.

**COST LIMITATION:** The total amount paid to the Contractor/Architect/Engineer for producing and delivering standard services, including designs, plans, drawings and specifications for a project should not exceed six percent (6%) of the independent estimate of the construction costs of the project.

**DESCRIPTIVE LITERATURE:** Information such as catalog cuts, illustrations, drawings, and brochures which show the characteristics or construction of a product or explain its operation, furnished by a Bidder as part of its Bid to describe the products offered in its Bid and required only when the Authority deems such literature is needed to enable it to determine whether the products offered meet the specifications and to establish exactly what the Bidder proposes to furnish.

**DETERMINATION AND FINDINGS (D&F):** A document created for the Contract file to record all the facts that form the basis for an important decision affecting a procurement or contract action.

**DISADVANTAGED BUSINESS ENTERPRISE (DBE):** A disadvantaged business enterprise is a for profit small business concern: (1) That is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged, or, in the case of a corporation, 51 percent of the stock of which is owned by one or more such individuals; and (2) Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

**DISADVANTAGED BUSINESS ENTERPRISE (DBE) OFFICER:** The DBE program shall be administered by the Authority's DBE Officer. The DBE Officer shall develop a referral system on managerial and technical assistance for interested DBE's as well as disseminate information on available business opportunities to the disadvantaged business community to facilitate DBE bidding on company projects. The DBE Officer will work closely with other

departments, consultants and others who are responsible for making management and other decisions relative to the Company's procurement and construction contracts. This officer shall offer guidance to Company personnel regarding their DBE responsibilities.

**EVALUATION CRITERIA:** Measurable skills, expertise and conditions used to equate Requests for Proposals.

**EVALUATION FORM:** A form used by the Evaluation Team to measure the Evaluation Criteria defined in the Request for Proposal.

**EVALUATION TEAM:** A group of individuals headed by the Authority and comprised of Authority staff and outside consultants as needed for evaluating a Request for Proposal.

**FTA:** Federal Transit Administration.

**FINAL ACCEPTANCE:** Final Acceptance of the Work occurs when the Work is fully, completely, and finally accomplished in full, absolute, and strict compliance with the Contract Documents to the satisfaction of the Authority.

**GENERAL SERVICES ADMINISTRATION (GSA):** The General Services Administration (GSA) is a U.S. federal agency that manages government procurement, real estate, and administrative services to support the operation of federal agencies efficiently and cost-effectively.

**GENERAL TERMS AND CONDITIONS:** A part of the Contract Documents. These clauses set forth the rights and responsibilities of the contracting parties.

**INDEPENDENT COST ESTIMATE:** A process whereby the estimated cost of a good or service to be procured is established by Authority staff or Authority representatives prior to the procurement; and the resulting estimate is used to assess the fair and reasonableness of an offered price. The word "independent" means that the estimate is prepared without the influence of persons who have a financial interest in or will be considered for the resulting award.

**INVITATION FOR BIDS (IFB):** The complete assembly of related documents furnished to prospective Bidders for the purpose of bidding, based on a clear and accurate description of the technical requirements for the material, product, or service to be procured.

**LABOR AND MATERIAL PAYMENT BOND:** A bond assuring payment as required by law of all persons supplying labor and material in the execution of the Work provided for under a contract.

**LEGAL COUNSEL:** (Used as required.)

**LIQUIDATED DAMAGES:** An amount assessed a Contractor when it fails to complete

delivery, installation, services, or the work specified in a contract within the contract period of performance or schedule which causes increased costs to the Authority or FTA, the extent of which actual damages would be difficult or impossible to assess as of the date of contract execution.

**NOTICE OF FINAL SETTLEMENT:** A public notice required by State Law that final payment of a construction or construction-related contract is to be made, requesting that claims be filed by subcontractors or suppliers who have not been paid for work or materials provided to the contractor relating to the specific contract.

**NOTICE TO PROCEED:** Written direction to commence delivery, installation, services, or the Work provided for in the Contract.

**OVERHEAD OR INDIRECT COSTS:** The necessary costs which cannot be specifically identified by a Contractor as directly attributable to Contract work, usually the general costs of running the business.

**OWNER:** The "Owner" is the Authority or its authorized representative.

**PERFORMANCE BOND:** A bond securing fulfillment of all the Contractor's obligations under a Contract.

**PERIOD OF PERFORMANCE:** The period of performance is the period of time allowed in the Contract Documents for completion of the Work from effective date through final date.

**PREBID CONFERENCE/MEETING:** A meeting of the Authority and perspective bidders held before a bid opening to discuss any questions or clarifications in Invitation for Bid. This conference is not mandatory.

**PRECONSTRUCTION MEETING:** For a construction project, a meeting with representatives of the Contractor and the Owner before beginning the construction work.

**PREPROPOSAL CONFERENCE/MEETING:** A meeting of the Authority and perspective proposers held before Request for Proposals are due to discuss any questions or clarifications. This conference is not mandatory.

**PRICE ANALYSIS:** Process of examining and evaluating the reasonableness of a bidder's or proposer's price without evaluation of the separate cost elements and proposed profit of the bidder/proposer.

**PRIME CONTRACTOR PARTICIPATION:** The minimum amount of work to be performed by the Contractor on site with its own staff.

**PROGRESS PAYMENTS:** Reimbursement to a Contractor for costs incurred by it at a percentage or stage of completion of the Contract Work when the Contract requires long

time periods for completion of Contract performance.

**PROGRESS REPORTS:** Periodic reporting of progress. Specific requirements are set forth in the contract document.

**PURCHASE ORDER:** A legal, contractual document used as a written confirmation factually describing all aspects of an agreement reached between the buyer Authority and seller. The end product of a Purchase Order is an item purchase or a rental, maintenance, or office support agreement, or purchase of services.

**REQUEST FOR PROPOSAL (RFP):** A Request for Proposal (RFP) is a formal document issued by an organization to solicit detailed proposals from potential suppliers or contractors for a specific project, product, or service, outlining the requirements, evaluation criteria, and submission guidelines.

**REQUEST FOR QUALIFICATIONS (RFQ):** A Request for Qualifications (RFQ) is a procurement document used to solicit information from vendors or contractors about their experience, capabilities, and qualifications to determine their suitability for a specific project or service before inviting them to submit full proposals.

**REQUEST FOR INFORMATION (RFI):** A Request for Information (RFI) is a preliminary procurement document used to gather general information from potential suppliers about their products, services, and capabilities to help assess market options and inform future procurement decisions.

**RESPONSIBLE BIDDER/PROPOSER:** A bidder having the financial resources, judgment, skill, integrity and ability to fulfill successfully the requirements of the Contract.

**RESPONSIVE BID:** A bid, which conforms to all technical and legal requirements of the Bid Document.

**SMALL DISADVANTAGED BUSINESS CONCERN:** A small disadvantaged business "concern" shall mean an enterprise which is independently owned and operated which is not dominant in its field of operation and which further meets the criteria established by the Small Business Act (15 U.S.C.A. 5632) and the implementing regulations (13 CFR 121) and FTA Regulations.

"Owned and Controlled" means a small business concern whose management and daily business operations are controlled by disadvantaged individuals and which is:

A sole proprietorship legitimately owned by individual/individuals who are disadvantaged; a partnership or joint venture in which at least 51% of the beneficial ownership interest is legitimately held by disadvantaged individuals; or a corporation or other entity, including a publicly-owned business, in which at least 51% of the beneficial ownership interest (i.e., stock) legitimately are held and owned by disadvantaged individuals.

**STATEMENT OF WORK (Or Scope of Work)**: Detailed description of project and performance requirements as defined in a Request for Proposal.

**STURAA**: The Surface Transportation and Uniform Relocation Assistance Act of 1987.

**TECHNICAL SPECIFICATIONS**: Detailed description of equipment specifications and project requirements as defined in Invitation for Bid.

**EL DORADO TRANSIT**: Formally the El Dorado County Transit Authority or otherwise referred to herein as the Authority.

DRAFT

**CHAPTER 15: LIST OF FTA CLAUSES**  
**REQUIRED THIRD-PARTY CONTRACT CLAUSES**  
(excluding micro-purchases, except for construction contracts over \$2,000)

FTA CLAUSES	COMMENTS
<b>All FTA-Assisted Third-Party Contracts and Subcontracts</b>	
No Government Obligation to Third Parties by Use of a Disclaimer	
Program Fraud and False or Fraudulent Statements and Related Acts	
Access To Records	
Federal Changes	
Civil Rights (EEO, Title VI & ADA)	
Incorporation of Federal Transit Administration (FTA) Terms	
Energy Conservation	
Seat Belt Use	
Distracted Driving	
<b>Awards Exceeding \$10,000</b>	
Termination Provisions	49 CFR Par 18 Not Required of States
<b>Awards Exceeding \$25,000</b>	
Debarment and Suspension	2 CFR Parts 180 and 1200
Notice to FTA and U.S. DOT Inspector General of information related to fraud, waste, abuse, or other legal matters	Applies to all contracts at all tiers expected to equal or exceed \$25,000. Must require a prime contractor to “flow-down” the requirement to subcontractors.
<b>Awards Exceeding \$100,000 by Statute</b>	
Lobbying	Contractors that apply or bid for an award exceeding \$100,000.
<b>Awards Exceeding \$150,000 by Statute</b>	
Buy America	Construction contracts and Acquisition of Goods or Rolling Stock that contain steel, iron, and manufactured products
Clean Air Act and the Federal Water Pollution Control Act	Contracts in excess of \$150,000
<b>Awards Exceeding \$250,000 (Simplified Acquisition Threshold) by Statute</b>	
Provisions for Resolution of Disputes, Breaches, or Other Litigation	For procurements over the Federal Simplified Acquisition threshold
<b>Transport of Property or Persons</b>	

Cargo Preference	All contracts involving equipment, materials, or commodities which may be transported by ocean vessel
Fly America	When property or persons transported by air between U.S. and foreign destinations, or between foreign locations
<b>Construction Activities</b>	
Davis-Bacon and Copeland Anti-Kickback Act	All Prime Construction contracts > \$2,000.
Contract Work Hours and Safety Standards	All Contracts > \$100,000 that involve the employment of mechanics or laborers
Build America, Buy America Act (BABA)	For federal awards obligated on or after October 23, 2023, 2 CFR Part 184 applies. Certain contracts and solicitations are exempt from the BABA requirement under DOT's limited waiver, detailed on their website.
Bonding Requirements	For construction or facility improvement contracts or subcontracts 10% Bid Guarantee 100% Performance Bond; and 100% Payment Bond
Seismic Safety	Contracts for Construction of New Buildings or Additions to Existing Buildings
Special DOL Clause	Contracts > \$10,000
<b>Nonconstruction Activities</b>	
Nonconstruction Employee Protection (Contract Work Hours and Safety Standards Act)	Applicable to all turnkey, rolling stock and operational contracts (excluding contracts for transportation services) > \$100,000
<b>Transit Operations</b>	
Transit Employee Protective Agreements	Applies to Section 5307, 5309, 5311 and 5316 Projects
Charter Service Operations	Operational Service Contracts
School Bus Operations	Operational Service Contracts
Drug and Alcohol Testing	Safety-Sensitive Functions. Applies to Section 5307, 5309 and 5311 Projects
Privacy Act	Applies to the Contractor and its employees that administer any system of records on behalf of the Federal Government under any contract.
<b>Planning, Research, Development, and Documentation Projects</b>	
Patent Rights	Contracts that meet the definition of "funding

	agreement” under 37 CFR §401.2 (a)
Rights in Data and Copyrights	Each contract involving experimental, developmental or research work
<b>Miscellaneous Special Requirements</b>	
Disadvantaged Business Enterprise (DBEs)	Contracts Awarded on the Basis of a Bid or Proposal Offering to Use DBEs
Prompt Payment and Return of Retainage	Per 49 CFR Par 26, if grantee meets the threshold for a DBE Program
Recycled Products and Solid Waste Disposal Act	Contracts for items designated by EPA, when Procuring \$10,000 or More per Year
ADA Access	Contracts for Rolling Stock or Facilities Construction/Renovation
Assignability Clause	Piggyback Procurements
Conformance with National ITS Architecture	Intelligent Transportation System (ITS) property and services must comply with the National ITS Architecture and Standards
Prohibition on certain telecommunications and video surveillance services or equipment	All contracts made by the non-Federal entity under the Federal award. Procurements awarded after August 13, 2020 that included telecommunications and video surveillance services or equipment.
<b>Rolling Stock (Certification &amp; Reports)</b>	
Transit Vehicle Manufacturer Certification	Applies to the procurements of transit vehicles
Bus Testing Report	Procurements of buses and modified mass produced vans
Pre-Award Buy America Audit	Rolling Stock procurements > \$150,000
Pre-Award Buy America Certification	Rolling Stock procurements > \$150,000
Pre-Award Purchaser’s Requirement Clarification	Rolling Stock procurements
Post-Delivery Audit	Rolling Stock procurements > \$150,000
Post-Delivery Buy America Certification	Rolling Stock procurements > \$150,000
Post-Delivery Purchaser’s Requirement Certification	Rolling Stock procurements
On-Site Inspector’s Report	Rolling stock procurements for any number of rail vehicles; more than 10 vehicles for areas >200,000 in population and 20 for areas <200,000 in population
Federal Motor Vehicles Safety Standards Pre-Award and Post Award Delivery Certification	Non-rail Rolling Stock procurements



## CHAPTER 16: PROCUREMENT CHECKLISTS

Finance personnel shall ensure the use of the appropriate procurement checklist.  
Procurement checklists must be included in the procurement file history.

### EL DORADO COUNTY TRANSIT AUTHORITY MICRO PURCHASE CHECKLIST

PO No: \_\_\_\_\_

IS PRICE DETERMINED FAIR AND REASONABLE?

YES ☐

NO ☐

EXPLAIN A "NO" ANSWER:

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HOW DID YOU DETERMINE PRICE FAIR AND REASONABLE

HISTORICAL PRICES ☐

PERSONAL KNOWLEDGE ☐

CATALOGUE / MARKET PRICE ☐

RECENT COMPETITION ☐

OTHER EXPLAIN: ☐

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Name: \_\_\_\_\_ Date: \_\_\_\_\_

**EL DORADO COUNTY TRANSIT AUTHORITY  
SMALL PURCHASE CHECKLIST**

PO No: \_\_\_\_\_

WERE PRICE OR RATE QUOTES OBTAINED FROM AN ADEQUATE NUMBER OF QUALIFIED SOURCES?

YES ☐

NO ☐

EXPLAIN A "NO" ANSWER:

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HOW DID YOU DETERMINE PRICE FAIR AND REASONABLE

HISTORICAL PRICES ☐

PERSONAL KNOWLEDGE ☐

CATALOGUE / MARKET PRICE ☐

RECENT COMPETITION ☐

OTHER EXPLAIN: ☐

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Name: \_\_\_\_\_ Date: \_\_\_\_\_

## EL DORADO COUNTY TRANSIT AUTHORITY FORMAL CHECKLIST

<b>Date:</b> _____ <b>Completed by:</b> _____	
<b>PO/Contract No:</b> <b>Source of Funding:</b>	
<b>Method of Procurement (Check one box)</b>  Competitive RFP: <input type="checkbox"/> Competitive Bid: <input type="checkbox"/> A&E Services: <input type="checkbox"/> Sole Source: <input type="checkbox"/>	
<b>Reason for Non-Competition:</b>	
<b>Reason for Procurement:</b>	
<b>Contract Type:</b> <b>Rationale for contract type:</b>	
<b>Reason for Contractor selection or rejection:</b> (ex. Lowest Responsive, Responsible Bidder)  Evaluation results were:	
<b>Basis for Contract Price:</b> Accepted contractor's proposed pricing: Negotiated Price (attached memorandum): Other:	
<b>Cost / Price Analysis:</b> The price offered by the supplier was within _____% of the independent estimate, and variance between the offerors constituted a range of _____. The competitive range was determined to be from \$ _____.  Pricing discrepancies between the offeror was attributed to:  Other sources/data used to affirm price reasonableness were:	
<b>Summary of Responsibility and Responsiveness Checks:</b>	
<b>Award</b>	Date of contract award: Council Approval Date:

**Change Orders**

Identify each and summarize reason for change, dates, cost analysis, time impact , and modification number (Attach additional sheets as necessary):

## **CHAPTER 17: FORMS**

### **INSTRUCTIONS FOR FORM 1 & 2**

FORM 1	CERTIFICATION OF PRIMARY PARTICIPANT REGARDING DEBARMENT, SUSPENSION, AND OTHER INELIGIBILITY AND VOLUNTARY EXCLUSION
FORM 2	CERTIFICATION OF LOWER TIER PARTICIPANTS REGARDING DEBARMENT, SUSPENSION, AND OTHER INELIGIBILITY AND VOLUNTARY EXCLUSION
FORM 3	CERTIFICATION REGARDING LOBBYING
FORM 4	DRUG-FREE WORKPLACE CERTIFICATION
FORM 5	NON-COLLUSIVE AFFIDAVIT
FORM 6	ELIGIBLE BIDDER CERTIFICATION
FORM 7	WORKER'S COMPENSATION INSURANCE CERTIFICATION
FORM 8	"BUY AMERICA" PROVISION
FORM 9	DBE PARTICIPATION
FORM 10	OFFERORS LIST OF PARTICIPATING FIRMS
FORM 11	CALIFORNIA LEVINE ACT
FORM 12	BUILD AMERICA, BUY AMERICA" PROVISION

**El Dorado County Transit Authority**  
**Instructions for Form 1 and 2**

1. By signing and submitting this proposal, the prospective recipient of Federal assistance funds is providing the certification as set out below.
2. The certification in this class is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective recipient of Federal assistance funds knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the Department of Labor (DOL) may pursue available remedies, including suspension and/or debarment.
3. The prospective recipient of Federal assistance funds shall provide immediate written notice to the person to whom the proposal is submitted if at any time the prospective recipient of Federal assistance funds learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms “covered transaction”, “debarred”, “suspended”, “ineligible”, “lower tier covered transaction”, “participant”, “person”, “primary covered transaction”, “principal”, “proposal” and “voluntarily excluded”, as used in this clause, have the meanings set out in Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective recipient of Federal assistance funds agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the DOL.
6. The prospective recipient of Federal assistance funds further agrees by submitting this proposal that it will include the clause titled “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions,” without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to check the List of Parties Excluded from Procurement of Non-procurement Programs.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to the other remedies available to the Federal Government, the DOL may pursue available remedies, including suspension and/or debarment.

**FORM 1**

**EL DORADO COUNTY TRANSIT AUTHORITY**

**CERTIFICATION OF PRIMARY PARTICIPANT REGARDING DEBARMENT, SUSPENSION, AND  
OTHER INELIGIBILITY AND VOLUNTARY EXCLUSION**

---

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 29 CFR Part 98, Section 98.510, Participants' responsibilities. The regulations were published as Part VII of the May 26, 1988 Federal Register (pages 19160-19211).

**BEFORE COMPLETING THIS CERTIFICATION, READ THE FOLLOWING INSTRUCTIONS WHICH ARE  
AN INTEGRAL PART OF THE CERTIFICATION.**

The \_\_\_\_\_ certifies to the best of its knowledge and  
(Firm name/principal)  
belief, that it and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
2. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (2) of this certification; and
4. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

If unable to certify to any of the statements in this certification, the participant shall attach an explanation to this certification.

The primary participant, \_\_\_\_\_ certifies or  
(Firm name/principal)

affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification and understands that the provisions of 31 U.S.C. sections 3801 et seq. are applicable thereto.



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Name and Title of Authorized Representative

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Signature

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Date

**FORM 2**

**EL DORADO COUNTY TRANSIT AUTHORITY**

**CERTIFICATION OF LOWER TIER PARTICIPANTS REGARDING DEBARMENT, SUSPENSION,  
AND OTHER INELIGIBILITY AND VOLUNTARY EXCLUSION**

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This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 29 CFR Part 98, Section 98.510, Participants' responsibilities. The regulations were published as Part VII of the May 26, 1988 Federal Register (pages 19160-19211).

**(BEFORE COMPLETING THIS CERTIFICATION, READ THE FOLLOWING INSTRUCTIONS WHICH ARE AN INTEGRAL PART OF THE CERTIFICATION)**

- (1) The prospective recipient of Federal assistance funds certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (2) Where the prospective recipient of Federal assistance funds is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

---

Name and Title of Authorized Representative

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Signature

---

Date

## FORM 3

### EL DORADO COUNTY TRANSIT AUTHORITY CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form--LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, et seq .)]

(3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. A 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

[Note: Pursuant to 31 U.S.C. A 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.]

The Contractor, \_\_\_\_\_, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Bidder understands and agrees that the provisions of 31 U.S.C. A 3801, et seq., apply to this certification and disclosure, if any.

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Name and Title of Authorized Representative

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Signature

---

Date

**FORM 4**

**EL DORADO COUNTY TRANSIT AUTHORITY DRUG-FREE WORKPLACE CERTIFICATION**

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COMPANY/ORGANIZATION NAME

The contractor named above hereby certifies compliance with Government Code Section 8355 in matters relating to providing a drug-free workplace. The above named contractor will:

1. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations, as required by Government Code Section 8355 (a).
2. Establish a Drug-Free Awareness Program as required by Government Code Section 8355 9b), to inform employees about all the following:
  - (a) The dangers of drug abuse in the workplace,
  - (b) The person's or organization's policy of maintaining a drug-free workplace,
  - (c) Any available counseling, rehabilitation and employee assistance programs, and
  - (d) Penalties that may be imposed upon employees for drug abuse violations.
3. Provide as required by Government Code Section 8355 (c), that every employee who works on the proposed contract:
  - (a) Will receive a copy of the company's drug-free policy statement, and
  - (b) Will agree to abide by the terms of the company's statement as a condition of employment on the contract.

---

**CERTIFICATION**

I, the official named below, hereby swear that I am duly authorized legally to bind the contractor to the above described certification. I am fully aware that this certification, executed on the date and in the county below, is made under penalty of perjury under the laws of the State of California.

OFFICIAL'S NAME: \_\_\_\_\_

DATE EXECUTED: \_\_\_\_\_

EXECUTED IN THE COUNTY OF: \_\_\_\_\_

CONTRACTOR SIGNATURE: \_\_\_\_\_

TITLE: \_\_\_\_\_ FEDERAL I.D. NUMBER: \_\_\_\_\_

**FORM 5**

**EL DORADO COUNTY TRANSIT AUTHORITY  
NON-COLLUSIVE AFFIDAVIT**

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_,

Being first duly sworn deposes and says:

That he is \_\_\_\_\_ of the firm of \_\_\_\_\_

\_\_\_\_\_  
(Firm Name)

the party making the foregoing Bid, that such Bid is genuine and not collusive or sham; that said bidder has not colluded, conspired, connived, or agreed, directly or indirectly, with any bidder or person, to put in a sham Bid or to refrain from bidding, and has not in any manner, directly or indirectly, sought by agreement or collusion, or communication or conference, with any person, to fix the Bid price of affiant or of any other proposer, or to fix any overhead, profit or cost element of said Bid price, or of that of any other proposer, or to secure any advantage against the El Dorado County Transit Authority or any person interested in the proposed contract; and that all statements in said Bid are true.

That neither any officer, director or employee of the El Dorado County Transit Authority is in any manner interested, directly or indirectly, in the Bid to which this Non-Collusive Affidavit is attached, nor in the Contract which may be made pursuant to said Bid, nor in any expected profits which may arise therefrom.

Dated: \_\_\_\_\_ Name of  
Bidder

Official Address:

By \_\_\_\_\_

\_\_\_\_\_

Title \_\_\_\_\_

\_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

By \_\_\_\_\_ Notary  
Public

My Commission Expires: \_\_\_\_\_



**FORM 6**

**EL DORADO COUNTY TRANSIT AUTHORITY**

**ELIGIBLE BIDDER CERTIFICATION**

This contract is a covered transaction for purposes of 49 CFR Part 29. As such, the contractor is required to verify that none of the contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

The contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

By signing and submitting its bid or proposal, the bidder or proposer hereby certifies that they are not on the Comptroller General of the United States of America list of ineligible bidders.

The certification in this clause is a material representation of fact relied upon by the EDT Authority. If is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to the EDT Authority, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

Date \_\_\_\_\_

Signed

\_\_\_\_\_

\_\_\_\_\_  
Name of Bidder/Proposer

By \_\_\_\_\_

Title \_\_\_\_\_

By \_\_\_\_\_

Title \_\_\_\_\_

Official Address

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**FORM 7**

**EL DORADO COUNTY TRANSIT AUTHORITY  
WORKER'S COMPENSATION INSURANCE CERTIFICATION**

The Contractor shall secure the payment of Workmen's Compensation to its employees in accordance with the provisions of Section 3700 of the California Labor Code and shall furnish El Dorado County Transit Authority with a certificate evidencing such coverage together with verification thereof as follows:

"I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for Workmen's Compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this Contract."

---

Signed (Contractor)

Date

---

Print Name and Title

**FORM 8**

**EL DORADO COUNTY TRANSIT AUTHORITY**

**“BUY AMERICA” PROVISION**

**Buy America.** The Contractor agrees to comply with 49 U.S.C. 5323(j) and 49 C.F.R. Part 661, which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 C.F.R. 661.7, and include final assembly in the United Corporation, and microcomputer equipment and software. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C) and 49 C.F.R. 661.11. Rolling stock must be assembled in the United States and have a 70 percent domestic content.

**Build America, Buy America Act.** Construction materials used in the Project are subject to the domestic preference requirement of the Build America, Buy America Act, Pub. L. G, tit. IX, §§ 70911– 70927 (2021), as implemented by the U.S. Office of Management and Budget, the U.S. Department of Transportation, and FTA. The Recipient acknowledges that this agreement is neither a waiver of § 70914(a) nor a finding under § 70914(b).

A Proposer or Offeror must submit to the FTA recipient the appropriate Buy America certification (below) with all Proposals or offers on FTA-funded contracts, except those subject to a general waiver. Proposals or offers that are not accompanied by a completed Buy America certification must be rejected as nonresponsive. This requirement of a signed certificate does not apply to lower tier subcontractors.

Certification requirement for the procurement of steel, iron, or manufactured products and the use of domestic construction materials.

661

If steel, iron, or manufactured products (as defined in §§ 661.3 and 661.5 of this part) are being procured, the appropriate certificate as set forth below shall be completed and submitted by each proposer or offeror in accordance with the requirement contained in § 661.13(b) of this part.

**Certificate of Compliance with Buy America**

Certificate of Compliance with 49 U.S.C. 5323(j)(1)

The Proposer or Offeror hereby certifies that it will comply with meet the requirements of 49 U.S.C. 5323(j)(1),) and the applicable regulations in 49 CFR Part 661.5.

Date \_\_\_\_\_

Signature \_\_\_\_\_

Company \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

**Certificate of Non-Compliance with Buy America Requirements** 49 U.S.C. 5323(j)(1)

The Proposer or Offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j),(1) and 49 C.F.R. 661.5, but it may qualify for an exception to the requirement pursuant to 49 U.S.C. 5323(j)(2), as amended,(A), 5323(j)(2)(B), or 5323(j)(2)(D), and the applicable regulations in 49 CFRC.F.R. 661.7.

Date \_\_\_\_\_

Signature \_\_\_\_\_

Company \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

**FORM 9**

**EL DORADO COUNTY TRANSIT AUTHORITY  
DBE PARTICIPATION**

The following stated dollar (\$) amount will be the compensation paid to Disadvantaged Business Enterprise (DBE) Firms certifiable or certified under the provisions of the "El Dorado County Transit Authority DBE Program".

\$ \_\_\_\_\_ Firm Name: \_\_\_\_\_  
Firm Address: \_\_\_\_\_  
Description of Work \_\_\_\_\_

\$ \_\_\_\_\_ Firm Name: \_\_\_\_\_  
Firm Address: \_\_\_\_\_  
Description of Work \_\_\_\_\_

\$ \_\_\_\_\_ Firm Name: \_\_\_\_\_  
Firm Address: \_\_\_\_\_  
Description of Work \_\_\_\_\_

Total DBE percentage participation \_\_\_\_\_ %  
Total dollar value of DBE participation \$ \_\_\_\_\_

The undersigned hereby certifies that the foregoing statements and information are true and correct.

Name of Bidder: \_\_\_\_\_

Company Name: \_\_\_\_\_

**FORM 10**

**EL DORADO COUNTY TRANSIT AUTHORITY  
OFFERORS LIST OF PARTICIPATING FIRMS**

Bidder/Proposer must submit with bid/proposal the following information for all participating firms:

**Prime Contractor Information**

Company Name \_\_\_\_\_

Age of Firm \_\_\_\_\_

Address \_\_\_\_\_

Annual Gross Receipts \$ \_\_\_\_\_

DBE Certified? \_\_\_\_\_, if yes: Date Certified: \_\_\_\_\_

Phone \_\_\_\_\_ Dollar amount of subcontract \$ \_\_\_\_\_ By (Agency) \_\_\_\_\_

Describe work \_\_\_\_\_

**Subcontractor(s) Information**

Company Name \_\_\_\_\_

Age of Firm \_\_\_\_\_

Address \_\_\_\_\_

Annual Gross Receipts \$ \_\_\_\_\_

DBE Certified? \_\_\_\_\_, if yes: Date Certified: \_\_\_\_\_

Phone \_\_\_\_\_ Dollar amount of subcontract \$ \_\_\_\_\_ By (Agency) \_\_\_\_\_

Describe work \_\_\_\_\_

Company Name \_\_\_\_\_

Age of Firm \_\_\_\_\_

Address \_\_\_\_\_

Annual Gross Receipts \$ \_\_\_\_\_

DBE Certified? \_\_\_\_\_, if yes: Date Certified: \_\_\_\_\_

Phone \_\_\_\_\_ Dollar amount of subcontract \$ \_\_\_\_\_ By (Agency) \_\_\_\_\_

Describe work \_\_\_\_\_

(Copy for additional Subcontractors as needed)



**FORM 11**

**EL DORADO COUNTY TRANSIT AUTHORITY  
CALIFORNIA LEVINE ACT**

California Government Code Section 84308 (commonly referred to as the "Levine Act") prohibits any Authority Board Member from participating in any action related to a contract, if he or she receives any political contributions totaling more than \$250 from the person or company awarded the contract within the previous twelve months, and for three months following the date a final decision concerning the contract has been made. The Levine Act also requires a member of the Authority Board who has received such a contribution to disclose the contribution on the record of the proceeding.

Proposers also are required to disclose such contributions, if any; and are responsible for accessing the links below to review the names of Board members prior to answering the below questions:

Board Members: <https://eldoradotransit.com/about-us/board-of-directors/>

Have you or your company, or any agent on behalf of you or your company, made any political contributions of more than \$250 to any Authority Board Member in the 12 months preceding the date of the submission of your proposal(s) or the anticipated date of any Board action related to this contract?

☐ YES ☐ NO. If yes, please identify the Board Member(s):

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Do you or your company, or any Authority on behalf of you or your company, anticipate or plan to make any political contribution of more than \$250 to any Authority Board Member in the three months following any Board action related to this contract?

☐ YES ☐ NO. If yes, please identify the Board Member(s):

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Answering yes to either of the two questions above does not preclude the Authority from awarding a contract to your firm or taking any subsequent action related to the contract. It does, however, preclude the identified Board Member(s) from participating in any actions related to this solicitation and resulting contract(s).

**FORM 12**

**EL DORADO COUNTY TRANSIT AUTHORITY**

**“BUILD AMERICA BUY AMERICA” PROVISION**

This procurement is subject to the Federal Transit Administrations Build America, Buy America Act (BABA) requirements in the Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, div. G §§ 70901-27, as implemented at 2 CFR Part 184. A “Build America, Buy America” Certificate, as per attached format, must be completed and submitted with the bid. A bid which does not include the certificate will be considered non-responsive.

(1) All iron and steel used in the project are produced in the United States. This means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

(2) All manufactured products used in the project are produced in the United States. This means the manufactured product was manufactured in the United States, and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation.

(3) All construction materials are manufactured in the United States. This means that all manufacturing processes for the construction material occurred in the United States.

**Certificate of Compliance with BABA Requirements**

bidder or offeror hereby certifies that it will comply with the requirements of 49 U.S.C. 5323(j)(1), 49 CFR part 661, and 2 CFR Part 184.

Date \_\_\_\_\_

Signature/Name \_\_\_\_\_

Company/Title \_\_\_\_\_

**Certificate of Non-Compliance with BABA Requirements** bidder or offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j)(1), 49 CFR part 661, and 2 CFR Part 184 but it may qualify for an exception to the requirement pursuant to 49 U.S.C. 5323(j)(2), as amended, the applicable regulations in 49 CFR 661.7, 2 CFR 184.7, and 2 CFR 184.8.

Date \_\_\_\_\_

Signature/Name\_\_\_\_\_

Company/Title\_\_\_\_\_