

## Summary of Policy

The Procurement Policy governs the conduct of procurement personnel and their activities. The Policy establishes the framework that guides the solicitation, award and administration of all contracts and purchases for supplies, services, equipment and construction.

The purpose of the policy is to encourage competition among vendors and to require that purchases of goods and services be cost-effective and timely. It requires Procurement staff to follow sound business practices and adhere to public policy principles that are articulated by the Board and other legislative bodies.

The policy articulates guiding principles, procurement standards and regulatory requirements for the procurement process. It also identifies the persons to whom authority has been delegated and describes the circumstances under which deviations from the policy may be made.

When the Board adopted a Small Business Technical Participation (SBTP) policy early this year, the document impacted the Procurement Manual. As a result, a new section, Section 3.3, was added to Chapter 3 to address the new policy. The SBTP policy will apply to competitively negotiated procurements, which reach the dollar threshold requiring Board approval and have either a DBE or SBE goal. The policy will not apply when the core work to be performed is proprietary to the prime contractor. Since the SBTP policy requires a flexible approach during the selection process, the sealed bid process was not included.

The SBTP policy changes the existing DBE/SBE process in which goals are established to ensure small business participation within any areas of work. This will increase the probability that

proposers interested in doing business with us will include small businesses to perform core technical work. However, it may also increase the number of Good Faith Effort determinations that must be made, therefore increasing the overall Procurement cycle time. Although this change will increase the procurement process cycle time, the policy will work towards removing barriers impacting small businesses' ability to grow and develop in technical areas of work on our contracts. It will also strengthen existing DBE and SBE programs to effectively promote greater opportunities for small businesses to demonstrate their technical capability.

## Historical Perspective

The Federal Transit Administration requires that the organization have a set of procurement procedures that conforms to applicable local, state and federal laws and regulations.

The Board approved the first Procurement Policies and Procedures Manual (PPPM) in July 1997 following the consolidation of the Procurement Departments as the only set of policies on procurement and contract administration. As laws and regulations have changed, staff has brought amended versions of the Manual for the Board's approval.

In March 1999, the Board reiterated the CEO authority to approve contracts up to \$100,000 is given on a per contract basis only. Any and all changes to the Procurement Manual shall come before the Executive Management Committee and full Board in a clear and concise request for approval.

In July 1999, the Board approved a revision to the CEO contracting authority for Purchases, Services and Miscellaneous contracts, other than Public Works

contracts, from \$100,000 to \$200,000. It established Board delegated CEO contract approval authority for modifications/amendments to an aggregate of \$100,000 over the life of the contract. It also required that modifications/ amendments to service contracts directly related to rail construction be treated similar to rail construction (Public Works) change orders.

In October 1999, the Board adopted policy changes to the DBE and SBE program that encompassed greater participation on the part of small businesses; appropriate changes were included in the Procurement Policies and Procedures Manual.

In March 2000, the Board approved four additional changes to the PPPM. They included revisions to reflect increases in the small purchase thresholds to \$40,000 for purchases of supplies, equipment and materials and increased the micro purchase threshold to \$2,500 in accordance with approved Senate Bill 532 amended the circumstances under which two step sealed bidding may be used, revised the section on protests, and implemented public notification on all formal bid results.

Six changes occurred in the February 2001 Board action. They included revisions to the Manual to ensure that it

- reflected current policies and practices of Pre-Qualification
- required approval by the CEO, DCEO or the CFO, for procurement policy and procedure waivers when Procurement is the user Department,
- increased the threshold for submission of certified cost or pricing data and audit requirements from \$100,000 to \$500,000,

- clarified the CEO's authority to reject all bids for construction contracts under California Public Utilities Code § 130051.9(c), and delegated to the Executive Officer, Procurement, authority to reject all bids in limited circumstances;
- clarified the responsibility of the CEO as the Contracting Officer with power of further re-delegation; and
- added the authority of the Inspector General to enter into contracts and other arrangements.

August 2001, key policy changes incorporated language from previous Board direction that the CEO not approve construction contracts that exceed the Board authorized project budgets. It also included changes necessary for compliance with FTA guidelines regarding pre-qualifications. This policy change also adds the two-year applicability of pre-qualification applications.

In September 2001, the Board approved a significant enhancement of the PPPM which included the incorporation of previous Board approved changes, industry best practices, updated legislative statutes, and a new policy, Disposal of Personal Property.

In March 2002, the Board approved revisions to the PPPM to comply with changes in California law and 49 CFR Part 26. In April 2002, the Board approved a revision to the agency's Procurement Policies and Procedures Manual to require contractors to certify requests for payment.

In July 2002, the Board approved revisions to incorporate FTA's recently produced guidelines to assist grantees in compliance in the area of mandatory contractual flow-down requirements and incorporated policy language providing for clarity in the Check Request Processing policy.

The most recent amendment to the Manual occurred in March 2003, when staff made significant changes to reflect a paradigm shift in the procurement process, eliminating procedural constraints and conflicting requirements that have kept staff from serving its clients and exercising sound business judgment. The revised policy streamlines the procurement process by providing guiding principles for agency acquisitions. Sections have been redrafted to comply with applicable regulations and eliminate redundancies. The title was changed to Procurement Policy Manual.

In April 2003, the Board delegated to the Chief Executive Officer the authority to approve all amendments to renew annual software and hardware license and maintenance agreements. This change in policy is consistent with current industry practices and embraces best practices and sound business judgment

## Last Board Action

January 22, 2004 – Procurement

The Board adopted on consent calendar the Small Business Technical Policy and added Section 3.3 to the Procurement Policy Manual, Chapter 3.

## See Related

[Disadvantaged Business Enterprise](#)

[Small Business Enterprise](#)

[Small Business Technical Participation](#)

[Administrative Code](#)

[Disposition of MTA Personal Property](#)

[Public Utilities Code § 130051.14](#)

[Public Utilities Code § 130232 – 130239](#)

[Public Utilities Code § 130243](#)