

1 **Jefferson Transit Authority**

2 **Resolution No. 15-06**

3 **Updating the Jefferson Transit Authority Procurement Policy**

4
5 **A RESOLUTION** of the Board of Directors of the Jefferson County Public
6 Transportation Benefit Area, hereinafter called "the Authority," updating the
7 Jefferson Transit Authority Procurement Policy

8
9 **WHEREAS**, Jefferson Transit Authority adopted a procurement policy in August
10 2003 and revised it in February 2006 and July 2010; and

11
12 **WHEREAS**, changes to make the procurement procedure more efficient have
13 been identified and incorporated in the updated policy; now therefore,

14
15 **NOW, THEREFORE, BE IT RESOLVED** by the Jefferson Transit Authority Board
16 that the attached revised Procurement Policy is hereby adopted.

17
18
19 **CERTIFICATION**

20
21 The undersigned duly qualified Clerk of the Board, acting on behalf of the Jefferson
22 County Public Transportation Benefit Area, certifies that the foregoing is a true and
23 correct copy of a resolution adopted at a legally convened meeting of the Jefferson
24 Transit Authority Board held on April 21, 2015.



Chair



Vice Chair



Member



Member



Member

Attest:


Clerk of the Board

Jefferson Transit Authority



Procurement Policy

Adopted by the Authority Board of Directors on August 19, 2003 (Resolutions# 03-08)
Revised by the Authority Board of Directors on February 21, 2006 (Resolution# 06-04)
Revised by the Authority Board of Directors on July 20, 2010 (Resolution# 10-17)

**Revised by the Authority Board of Directors on 4/21/2015
(Resolution# 15-06)**

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CHAPTER 1 GENERAL POLICY

1.0 AUTHORITY

Authority for this policy is contained in Jefferson Transit Authority (JTA) Resolution No. 03-08 dated August 19, 2003.

1.1 PROCUREMENT GOAL

It is JTA's goal to obtain the goods and services required when needed at a fair price and in a fair and equitable manner. All contracts executed with federal funds are subject to the requirements of applicable laws and regulations and shall include all contractual clauses required by Federal statute or regulation.

1.2 COMPETITION

In the absence of extenuating circumstances, all procurements will be placed only after determining that the competitive forces of the marketplace are present and that the market has been afforded the opportunity to respond to JTA's needs. Extenuating circumstances would include emergency actions related to issues of safety; cases where sole source procurement can be adequately justified and documented; cases where the procurement cost to seek competition is deemed greater than the potential savings; and cases where delay would cause a material loss or loss of services provided by JTA.

1.3 FAIR TREATMENT OF VENDORS

JTA staff shall treat all vendors fairly and equitably in the procurement process. Collusion and appearance of collusion shall be avoided in all cases.

1.4 ETHICS

In order to avoid any appearance of conflict of interest in purchasing or contract award, JTA's employees, officers, board members, or agents may neither solicit nor accept gratuities, favors, or anything of monetary value from present or potential contractors or sub-recipients. Unsolicited gifts of nominal intrinsic value not related to any purchase or contract may be kept.

JTA's employees, officers, board members, or agents are prohibited from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest or personal gain. Violators of this policy will be subject to discipline up to and including discharge.

1.5 CONFLICT OF INTEREST

JTA's employees, officers, board members, or agents are prohibited from participating in the selection, award, or administration of a contract if a real or apparent conflict of interest would be involved. Such a conflict would arise when any of the parties set forth below has a financial or other interest in the firm or entity selected for award:

- a. The employee, officer, board member or agent;

- b. Any member of his or her immediate family;
- c. His or her partner;
- d. An organization that employs, or is about to employ, any of the above.

1.6 DELEGATION OF AUTHORITY

The following JTA employees are authorized to purchase or issue purchase orders for supplies, materials, and services up to \$2,500:

- General Manager (GM)
- Finance Manager (FM)
- Operations Manager
- Fleet & Facilities Manager
- Executive Assistant/Clerk of the Board
- IT Specialist
- Facilities Maintenance Worker
- Mechanic
- Maintenance Clerk

The General Manager is delegated additional authority by the JTA Board to execute all procurement documents for goods and/or services and public works contracts up to \$25,000. The provisions of the annual adopted budget limit this procurement authority to those items in adopted budgets.

In executing their authorities as delegated above, individuals will be responsible for:

- Determining need and providing justification (all).
- Technical specifications or adequate item description (all).
- Obtaining price quotes (all) At least 3 quotes (from email, website, fax, or phone call) will be needed to ensure the price is fair and reasonable.
- Conducting price analysis (GM/FM).
- Providing sole-source justifications (GM/FM).
- Purchasing or issuing a purchase order with the appropriate authorized signature, estimated costs, price quotes, and any special terms (all).
- Accepting the item(s) and forwarding the coded invoice or other evidence of receipt and acceptance to Accounts Payable (all).

Purchase documents not executed within the above-delegated authority may become the responsibility of the person originating the transaction.

1.7 RECORDS AND RECORDKEEPING

The FM and/or a designee shall be responsible for maintaining all records relating to procurement actions. Authorized purchasers are responsible for furnishing the FM with all documentation concerning the procurement action, **including notes taken over the phone for informal price quotations.**

1.8 FEDERAL REQUIREMENTS

While this policy describes the procurement methods used by JTA for most purchases, when federal grant funds are involved certain regulations regarding federal procurement must also be followed and given precedence in the event of a conflict with this policy.

Specifically, JTA will follow the requirements of FTA Circular 4220.1F and subsequent updates and amendments; the Federal Acquisition Regulation (FAR); and the recommendations in the FTA's Best Practices Manual.

When contracting for Architectural and Engineering services, JTA will follow the competitive proposal procedures based on the Brooks Act defined in 40 USC 541.

1.9 STATE REQUIREMENTS

While there are no state procurement regulations directed specifically to transit systems, there are some sections of the statutes applying to all types of state public agencies. The major citations of importance in this regard are in TITLE 39 RCW, Public Contracts and Indebtedness.

CHAPTER 2 METHODS OF PROCUREMENT

2.0 INTRODUCTION

Procurement methods available are:

Under \$25,000:

- 2.1 Small items purchase
- 2.5 State, Federal or public agency contract / cooperative purchasing agreement
- 2.6 Municipal Research and Service Center of Washington Small Public Works Roster

\$25,000 and over:

- 2.2 Competitive sealed bid
- 2.3 Competitive negotiated procurement
- 2.4 Noncompetitive negotiated procurement
- 2.5 State, Federal or public agency contract / cooperative purchasing agreement
- 2.6 Municipal Research and Service Center of Washington Small Public Works Roster

2.1 SMALL ITEMS PURCHASE

Small items procurement usually involves relatively standard, easily specified, readily available goods or services.

Small items purchase procedures are those relatively simple and informal procurement methods that are sound and appropriate for purchases/purchase orders relating to services, supplies, and other property costing in the aggregate not more than \$24,999. If open purchase orders are established with firms that will provide goods or services exceeding

this amount in the aggregate over a period of 12 months, the account must be established competitively and then individual purchases made by the small items purchase procedure.

Formally issued Request for Bid or Request for Proposals may be used for small item purchases where circumstances warrant it, but are not required.

For small items procurements, price competition is usually obtained by doing telephone shopping, catalog shopping, internet shopping, or solicitation of informal written quotations, although competitive quotes are not required if the price is determined to be fair and reasonable.

Use of a purchase order usually satisfies small order procurements. There are four exceptions to this generalization and they are: (1) over-the-counter purchases; (2) items charged to the JTA credit card; (3) petty cash purchases; and (4) certain open purchase orders.

1. Over-the-counter purchases are where an order and delivery is taken in person on the same day from a local source and the item is charged to JTA. These would be for orders less than \$150. No purchase order is required, but the purchaser must provide, on the same day, a billing or other proof of purchase to accounting with an authorized purchaser's signature.
2. The JTA credit card may be used when an item is purchased over the telephone, through a catalog or on the internet when an account has not been established with the vendor. These purchases are limited by the purchaser's purchasing authority and/or credit card limit.
3. Petty cash may be used for a purchase of an item from a local source when the cost does not exceed \$50 and when there is no open purchase order with the vendor. No purchase order is required. This method is encouraged for purchases less than \$25.
4. Open purchase orders will specify persons authorized to place orders for routine items such as gasoline, minor repairs, and certain supplies; and may have a cost limit.

2.2 COMPETITIVE SEALED BIDS

In this procurement method, the FM is responsible for oversight of sealed bids, which are solicited through publication of a Request for Bids. A firm, fixed-price contract is awarded to the responsible bidder whose bid is responsive (conforming to all the material terms and conditions of the Request for Bid) and is lowest in price.

This method is to be used in the following situations:

1. A complete, adequate, and realistic specification or purchase description is available.
2. Two or more responsible suppliers are willing and able to compete effectively for the order.
3. The procurement lends itself to a firm, fixed-price contract and selection of the successful bidder can appropriately be made principally on the basis of price.

This method of procurement involves the following steps: cost estimate, solicitation of bids, distribution of bid information, opening of bids, review and evaluation of bids, price analysis, and bid award.

2.2.1 Solicitation of Bids

If the procurement is expected to cost more than \$25,000, it will be brought before the JTA board for approval to solicit bids. A Request for Bids or Request for Proposals is advertised in media where it is expected to be seen by potential bidders. Solicitation also involves inviting parties assumed to have a capability to perform the service. Vendor lists, trade publications, public advertising, the internet, the Washington State Office of Minority and Women's Business Enterprises (OMWBE) directory, and telephone yellow page listings are potential sources of information for developing a list of firms to solicit. **If the procurement is classified as a public works project pursuant to RCW 39.04:**

- An advertisement will be placed, at a minimum, in the Port Townsend and Port Angeles newspapers, as well as an official OMWBE publication.
- The advertisement will give a brief description of the goods or services sought, directions for obtaining the complete bid package, and the date the bids are due.

2.2.2 Distribution of Bid Information

All information concerning the procurement will be included in the bid package and distributed to all interested bidders. At a minimum, the bid package will contain a description of the procurement, product specifications, instructions to bidders, and bid form.

The description of the procurement shall be a complete description of the goods or services wanted. The specifications shall be sufficiently complete and detailed so as to ensure that JTA will receive the product needed without restricting competition.

The instructions to bidders shall include bid and performance bond requirements, bid due date, instructions for obtaining bid clarification, number of copies of bid or proposal form required, and treatment of bidding irregularities.

The completed bid form must contain a bid amount, acknowledgement of receipt of the entire bid package and subsequent addenda, and signature by an authorized representative of the bidding company. All required certifications and assurances must be signed and included with the completed bid form.

All bidders shall be treated impartially and shall receive the same information. All questions and answers regarding the bid package will be distributed to all parties who have received the bid package. No private meetings will be held with any bidders during the bid period.

The FM or a designee will be responsible for maintaining a list of names and addresses of persons receiving the bid package and will furnish them with all addenda and records of communications.

2.2.3 Opening of Bids

At the place and time specified in the bid package, the FM or designee shall declare the bidding closed and publicly open the bids received before that time. The amount of the bid and the bidder's name will be read aloud and recorded on a bid opening form. Copies of the form will be distributed to anyone requesting a copy. No other information will be given out at that time, but an announcement will be made as to when the bid documents received will be available for public inspection. This delay allows the FM time to review, log, and bind the documents received.

Any bid documents received after the announced due date and time will not be opened except on the advice of counsel. Depending on the opinion of counsel, they will subsequently be opened or returned unopened to the bidder.

2.2.4 Review and Evaluation of Bids

The FM or a designee shall review all bids submitted for responsibility of the bidder and responsiveness to the bid.

The responsibility review is to determine the financial and technical capability of the bidder to perform the work. It is based upon a review of the documentation requested in the bid package and supplemented, if necessary, with phone calls to verify data, clarify the submittal, or check references. Only responsible bidders will be considered.

The FM or a designee will then review the bids for responsiveness to the bid package. This review is to determine that all requirements of the bid package have been met. At a minimum, it includes determining the time and date the bid was received, the completeness of the bid form, whether a proper bid security accompanied the bid, whether the math was accurate, and other special requirements specified in the bid package, if any. Any irregularities need to be classified as material or nonmaterial. If necessary, legal counsel will be consulted to assist in this determination. If an irregularity is nonmaterial (for example, incorrect number of copies of bid submitted), the bidder will be given a deadline by which to correct the irregularity. Only responsive bids will be considered.

2.2.5 Bid Award

The FM or a designee shall prepare a separate file containing, at a minimum, the purchase requisition, the advertisement for bids, the complete bid package, a list of bidders requesting the bid package, any correspondence with bidders, all bids received, the bid form filled out at the time of bid opening, and documentation of any reference checks or follow-up work to determine which bidders are responsible.

Upon receipt of the appropriate approval, the GM or FM shall issue a notice of bid award and prepare a purchase order or contract. If a contract is used, the form of

the contract will have been included in the bid package and no material changes may be made to the terms and conditions after the bid opening.

The statement of work from the bid package shall be incorporated into any purchase order or contract without change. When all submissions specified in the bid package (performance bond, insurance certificate, etc.) have been received, the contract or order will be placed and the unsuccessful bidders will be notified of the award. All unsuccessful bidders will be released from their bid bond and any funds held by JTA as bid security shall be returned.

2.2.6 Bid Protest

Any bidder or prospective bidder whose direct economic interest is aggrieved by the bidding and/or award process described in this section may protest the bidding and/or award process in accordance with these procedures.

The protest shall be submitted in writing to the JTA General Manager within five (5) days of the decision to award the bid by the JTA Board or by the General Manager, as may be applicable. In order to allow the filing of protest, the award of any bid by JTA will be effective six (6) days after the decision to award. In the event that a protest occurs within the five (5) day period, then the award shall not be made until the protest procedure has been fully completed unless JTA, at the discretion of the General Manager, determines that:

- A. The items to be procured are urgently required, or
- B. Delivery or performance will be unduly delayed by failure to make a prompt award, or
- C. Failure to make prompt award will cause undue harm to JTA.

The written protest shall contain, at a minimum, the following:

- A. The name of the protesting person.
- B. An identification of the protestor's interest in the bidding process.
- C. A statement of the grounds for protest, which should detail the basis for the protest and should provide supporting legal and factual arguments and a copy of any documents which the protestor submits to support its position.

Upon receipt of a protest, JTA shall notify the successful bidder. JTA shall also, through the General Manager, review the protest. The General Manager may request from the successful bidder a response to the protest. The General Manager shall, within ten (10) days or less of receipt of the protest, make a recommendation to the JTA Board concerning the protest. The JTA Board shall, at its next regularly scheduled meeting or at a special meeting called for that purpose, consider the protest and the recommendation of the General Manager and render its decision on the protest.

The decision shall become final six (6) days after the decision of the JTA Board unless there is a further protest of the award made pursuant to FTA procedures.

COMPETITIVE NEGOTIATED PROCUREMENT

In a competitive negotiated procurement, a Request for Proposals is publicized and proposals are requested from a number of sources. Negotiations are normally conducted with more than one of the sources submitting offers and either a fixed-price or cost reimbursable contract is awarded. This method shall be used in the following situations:

- Contracting for services or items that cannot be precisely defined, described, or standardized.
- Contracting for research and development where the end product may be conceptual in nature.
- A cost-reimbursement contract will be awarded.
- The technical aspects and price of the offeror's proposal will be negotiated.
- JTA wishes to give offerors the opportunity to revise the price or technical aspects of their proposals.
- Not only price, but also quality and contractual factors will be considered in order to determine the most advantageous offering.
- Artistic or aesthetic values will be weighed to the extent that price is a secondary consideration.

This method of procurement involves the following steps: cost estimate, solicitation of proposals, review and evaluation of proposals, cost analysis, negotiating with proposer, and award of contract.

2.3.1 Solicitation of Proposals

Solicitation involves contacting parties assumed to have a capability to perform the service. Vendor lists, trade publications, public advertising, the internet, the Washington State Office of Minority and Women's Business Enterprises directory, and telephone yellow page listings are potential sources of information for developing a list of firms to solicit. Potential suppliers are furnished a Request for Proposals that includes, at a minimum, a description of the item desired or statement of work, due date for proposals, criteria that will be used in the proposal evaluation and their relative weights, and general instructions to bidders. The cost information solicited must be returned separately from the technical proposal so that it will not influence the technical evaluation.

2.3.2 Review and Evaluation of Proposals

Proposals are opened privately. Strict confidentiality as to the nature and cost of the proposal must be 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.

An evaluation committee will review and score all proposals received against the evaluation criteria specified in the solicitation. The committee will arrive at a list of proposers judged to be within the competitive range and able to perform the work satisfactorily.

The committee will then consider the cost information and a strategy developed with regard to how that influences their decision, taking into consideration the weight (if any) that was placed on price in the selection criteria specified in the solicitation.

2.3.3 Negotiation with Proposers

At this point, a cost analysis of the leading proposers will be performed. Overhead, profit, direct charge rates, and other cost factors will be analyzed. Proposers may be required to submit additional data.

The parties may negotiate the procurement. A final and best offer of technical and/or cost data may be requested from the proposer. The committee will review this final offer and decide whether to enter into a contract with the proposer. If a contract cannot be negotiated, the committee will begin negotiations with the next qualified proposer.

2.3.4 Award of Contract

Following acceptance of final and best offers, either a fixed-price or cost-reimbursement contract is awarded. If required, Contractor's bonds and prevailing wage requirements will be included in the contract.

2.4 NON-COMPETITIVE NEGOTIATED PROCUREMENT

Procurement by non-competitive proposals will be used only when the award of a contract is infeasible under small purchase procedures, sealed bids, or competitive proposals and at least one of the following circumstances applies:

- The item is available only from a single source;
- The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
- The FTA authorizes a noncompetitive negotiation; or
- After solicitation of a number of sources, competition is determined inadequate.

A non-competitive procurement must be accompanied by a justification and be authorized by the FM. The FM has the responsibility of questioning the justification to preserve the integrity of the procurement process. In all cases, the decision to seek sole source procurement will be decided by the General Manager.

This method of procurement involves the following steps: cost estimate, solicitation of bid, negotiating with proposer, price or cost analysis, and contract award.

2.4.1 Negotiation of the Procurement

A noncompetitive procurement will be treated in a manner similar to the competitive negotiated procurement except there will be only one proposer. A thorough cost analysis to determine the cost and profit is fair and reasonable. Cost, delivery, specifications, and all other factors relating to the procurement need to be negotiated.

2.4.2 Placing the Order

After the appropriate approval for the level of the cost is received, the order will be placed either by purchase order or contract. Whichever document is used will follow proper authorization, as previously described, and will state the complete agreement between the parties, including technical specifications, cost, delivery, and other applicable terms and conditions.

2.5 STATE, FEDERAL OR PUBLIC AGENCY CONTRACT/COOPERATIVE PURCHASING AGREEMENT PROCUREMENT

When determined by informal inquiry to be in the best interests of JTA and, when afforded the opportunity, items may be procured from state, federal or other public agency contract or cooperative purchasing agreements without further competition.

2.6 MUNICIPAL RESEARCH AND SERVICE CENTER OF WASHINGTON (MRSC) SMALL PUBLIC WORKS ROSTER

Requests for bids, quotes or proposals should be submitted to vendors via the MRSC Small Public Works Roster to provide adequate competition and notice of the procurement opportunity. Procurements of a significant scope or where vendors on the portal are limited, shall also be noticed in publications such as the Seattle Daily Journal of Commerce, Passenger Transport, etc. as appropriate.

CHAPTER 3 COST AND PRICE ANALYSES

3.0 OVERVIEW

Either a cost or a price analysis must be conducted with every procurement action, including contract modifications. An independent cost estimate must be performed prior to receiving bids or proposals.

3.1 COST ANALYSIS

A cost analysis must be performed when the offeror is required to submit the elements of the estimated cost (labor hours, overhead, materials, etc.) These are required for professional consulting and architectural and engineering services contracts.

A cost analysis is necessary when adequate price competition is lacking for non-competitive procurements, contract modifications, and change orders, unless reasonableness can be established on the basis of a catalog or market price, or on the basis of prices set by law or regulation.

3.2 PRICE ANALYSIS

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

A price can be determined reasonable based on one or more of the following:

- The item was found to be reasonable on a recent purchase.
- It was obtained from a current price list or catalog listing.
- It is a sale price obtained from advertisements.
- The purchaser has personal knowledge of the item procured.
- It is a regulated rate or price (such as a utility).

CHAPTER 4 CONTRACT CHECKLIST

4.0 CONTRACT CHECKLIST

The following list itemizes the contract clauses that are often used in JTA contracts. Not all clauses are used in all contracts.

- Preamble
- Statement of Work
- Allowable Costs
- Payment Terms
- Term of the Agreement
- Records and Audits
- Termination
- Independent Agent
- Legal Remedies
- Assignment
- Coordination of Work
- Insurance and Indemnification
- Uncontrollable Forces
- Title to Property
- Severability
- Nondiscrimination
- Notices
- Signature Page

In addition to the above, contracts involving federal funding will use the federal clauses required for Third Party Contracts