



December 2, 2020

Item #14

**TO** GCTD Board of Directors

**FROM** Marlena Kohler, Purchasing Manager *MK*

**SUBJECT** Consider Approval to Increase Gold Coast Transit District's Purchasing Thresholds and Adopt GCTD's revised Purchasing Procedure.

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### **SUMMARY**

Staff is requesting to increase Gold Coast Transit District's purchasing threshold for Micro-Purchases to \$10,000, for Simplified Acquisitions (Small Purchase) to \$100,000 and for Large/Formal Purchases to \$100,000 and above and increase General Manager approval level to \$150,000.

### **BACKGROUND**

Purchasing thresholds are used to determine the method of procurement to be used with GCTD's requirements. Gold Coast Transit District's current Micro-Purchase threshold is \$3,000, the Simplified Acquisitions (Small Purchase) Threshold is at \$49,999 and the Large/Formal Purchase (RFP/IFB) Threshold is \$50,000 and above.

In June 2018, the Office of Management and Budget implemented statutory change the Micro-Purchase and Simplified Acquisitions (Small Purchase) in accordance with changes set forth in the National Defense Authorization Acts (NDAA), the memorandum raises the threshold for micro-purchases under Federal financial assistance awards to \$10,000 and raises the threshold for simplified acquisitions (Small Purchase) to \$250,000 for all recipients.

Staff is requesting to increase Gold Coast Transit District's purchasing threshold for Micro-Purchases to \$10,000, for Simplified Acquisitions (Small Purchase) to \$100,000 and for Large/Formal Purchases to \$100,000 and above.

Although NDAA increased the Simplified Acquisitions (Small Purchase) threshold to \$250,000, staff determined that \$100,000 is sufficient due to GCTD's average procurement values. Staff is also requesting that the General Manager's Approval Level be increased to \$150,000 and Board of Directors Approval Level increase to over \$150,000. Staff will report formal purchases to the Board of Directors for awarded contracts over \$100,000.

These increases will allow GCTD to be more inline with OMB's statutory change and those of other transit agencies of similar size.

As a result of the above, staff is requesting adoption of Resolution 2020-11, which revises Gold Coast Transit District's Purchasing Procedure to reflect the increases stated above and the approval levels of the General Manager and Board of Directors..

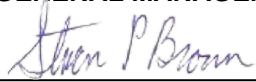
### **RECOMMENDATION**

**It is recommended that the Board of Directors authorize an increase to Gold Coast Transit's Purchasing Threshold for Micro-Purchases to \$10,000, for Simplified Acquisitions (Small**

### **GOLD COAST TRANSIT DISTRICT**

**Purchase) to \$100,000 and for Large/Formal Purchases to \$100,000 and above and that the General Manager's Approval Level be increased to \$150,000 and the Board of Director's Approval Level to over \$150,000. In addition, adopt Resolution 2020-11, revising GCTD's Purchasing Procedure to reflect above increases.**

**GENERAL MANAGER'S CONCURRENCE**



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Steven P. Brown  
General Manager



RESOLUTION 2020-11

**A RESOLUTION OF THE BOARD OF DIRECTORS OF GOLD COAST TRANSIT DISTRICT APPROVING THE REVISED PURCHASING PROCEDURE FOR THE PURCHASE OF GOODS AND SERVICES**

WHEREAS, it is appropriate to provide sufficient direction to employees regarding the purchase of goods and services in support of Gold Coast Transit District operations that will achieve the following purposes:

- (a) Establish efficient procedures for the purchase of supplies, services and equipment;
- (b) Secure for the District goods and services at the lowest possible cost commensurate with the quality needed;
- (c) Exercise positive financial control over purchases;
- (d) Define authority for the purchasing functions;
- (e) Assure the quality of purchases; and
- (f) Ensure compliance with applicable Federal and State purchasing-related regulations;

AND WHEREAS, to accomplish this, it is necessary to cancel the Procurement Procedure adopted by the Board on July 6, 2016 by Resolution 2016-03 and adopt the attached updated and revised Purchasing Procedure.

NOW THEREFORE, it is hereby adopted by the Board of Directors of Gold Coast Transit District that the Procurement Procedure adopted by the Board on July 6, 2016 by Resolution 2016-03 shall terminate and the attached revised Gold Coast Transit District Purchasing Procedure shall be effective December 2, 2020.

PASSED AND ADOPTED THIS 2nd day of December 2020

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Will Berg  
Board Chair

ATTEST:

I HEREBY CERTIFY that the foregoing Resolution was duly adopted by the Board of Directors of Gold Coast Transit District at a regular meeting thereof held on the 2nd day of December 2020.

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Steven P. Brown  
Secretary of the Board

## VERSION HISTORY

### Changes to the Purchasing Procedure (PP)

Changes in Federal and/or local laws, the Federal Transit Administration's (FTA) Manual Circulars 4220.1 or other governing regulations and best practices may require changes or additions to this PP. Other proposed changes, corrections, or additions to the PP shall be approved by the Purchasing Manager (PM). The PM will assign or coordinate as necessary the proposed changes with the appropriate individuals or departments. If substantive changes are proposed resulting from any of the above referenced actions, the proposed changes will be submitted to the General Manager and subsequently submitted for approval to the Board of Directors. All revisions will be maintained in the Version History below

Records of revisions to FTA Circular 4220.1F are as follows:

Revision #	Date
<u>4</u>	<u>March 18, 2013</u>
3	February 15, 2011
2	July 1, 2010
1	April 14, 2009
Master	November 1, 2008

Records of revisions to this PPM are as follows:

Resolution #	Description	Date
<u>2020-11</u>	<u>Adoption of Purchasing Procedure</u>	<u>December 2, 2020</u>
<u>2020-01</u>	<u>Procedural Changes</u>	<u>February 12, 2020</u>
2016-03	Procedural changes	July 6, 2016
2010-03	Adoption of Purchasing Procedure	November 3, 2010
2005-05	Procedural changes	2005
2001-04	Procedural changes	2001
193-07	Procedural changes	1993
83-01	Procedural changes	1983
79-13	Procedural changes	1979
n/a	Established Purchasing Resolution	1974

# 2020

As Adopted by Board of Directors

~~December 2, 2020~~ ~~November 10,~~

~~2010-~~

Revised Approval

~~July 6, 2016-~~

TABLE OF CONTENTS

**CHAPTER 1 - INTRODUCTION** .....2  
1.1 PURPOSE .....2  
1.2 BACKGROUND AND GENERAL INFORMATION .....2  
1.3 COMPLIANCE WITH LAWS AND REGULATIONS.....2  
1.4 PURCHASING DUTIES AND FUNCTIONS .....2  
1.5 DEFINITIONS.....3  
**CHAPTER 2 – AUTHORITY AND RESPONSIBILITY** .....6  
2.1 PERSONNEL INVOLVED IN PROCUREMENT .....6  
2.2 SUFFICIENCY OF FUNDS .....7  
2.3 REQUISITIONS.....7  
2.4 PURCHASE ORDERS .....7  
2.5 APPROVAL LEVELS .....8  
2.6 REPORTING OF FORMAL PURCHASES TO THE BOARD OF DIRECTORS .....8  
2.7 AVOIDING ORGANIZATIONAL CONFLICTS OF INTEREST .....8  
2.8 PROTEST PROCEDURES .....9  
**CHAPTER 3 – STANDARDS OF CONDUCT** ..... 10  
3.1 INTRODUCTION ..... 10  
3.2 PROCUREMENT ETHICS CODE..... 10  
3.3 DISCIPLINE..... 11  
**CHAPTER 4 - PROCEDURAL GUIDANCE FOR OPEN MARKET PROCUREMENTS**..... 12  
4.1 COMPETITION..... 12  
4.2 SOLICITATION REQUIREMENTS AND RESTRICTIONS..... 12  
4.3 METHODS OF PROCUREMENT ..... 14  
4.4 OTHER PROCUREMENT TECHNIQUES..... 16  
4.5 CONSTRUCTION CONTRACT REQUIREMENTS ..... 17  
4.6 DISADVANTAGED BUSINESS ENTERPRISE (DBE) ..... 18  
4.7 FEDERALLY REQUIRED PROVISIONS AND CERTIFICATIONS ..... 18  
4.8 COST AND PRICE ANALYSIS ..... 18  
4.9 EVALUATIONS ..... 20  
4.10 CONTRACT AWARD ..... 20  
4.11 RESPONSIBILITY EVALUATION..... 22  
4.12 CONTRACT ADMINISTRATION..... 22  
**CHAPTER 5 - OTHER THAN OPEN MARKET PROCUREMENTS**..... 24  
5.1 JOINT PROCUREMENTS ..... 24  
5.2 FEDERAL EXCESS AND SURPLUS PROPERTY ..... 24  
5.3 FEDERAL SUPPLY SCHEDULES (FSS) ..... 24  
5.4 STATE CONTRACTS AND COOPERATIVES ..... 24  
5.5 EXISTING CONTRACTS ..... 24  
**CHAPTER 6 - REVENUE CONTRACTS AND PROPERTY DISPOSAL** ..... 26  
6.1 REVENUE CONTRACTS..... 26  
6.2 DISPOSAL OF SURPLUS AND/OR NON-REPAIRABLE MATERIALS..... 26

## CHAPTER 1 - INTRODUCTION

### 1.1 PURPOSE

The purpose of this manual is to establish efficient procedures for the purchase of supplies, services, equipment, property and construction of facilities in compliance with applicable laws and regulations to satisfy Gold Coast Transit District's (GCTD) requirements at the lowest reasonable cost, price and other factors considered. These procedures shall not be overly time consuming and cumbersome. Although specific laws, regulations and directives are the basis for this procedure, it is intended that only elements from them that are considered particularly relevant to most GCTD procurement be included. Such documents should be referred to when issues arise that are not addressed herein or when issues are addressed, and more definitive guidance is necessary. Unless otherwise specified, the policies contained in this manual are advisory, and not mandatory. Any deviation from such policies shall not render any contract of GCTD void or voidable. This manual shall not create any rights in any third parties.

### 1.2 BACKGROUND AND GENERAL INFORMATION

Gold Coast Transit District (GCTD) was known as South Coast Area Transit (SCAT) from its inception in 1973, as a Joint Powers Authority (JPA), until July 1, 2007 when its name was changed to Gold Coast Transit. As of July 1, 2014, the JPA was dissolved by legislative act (Cal. Pub. Util. Code section 107000, et. Seq.) and Gold Coast Transit District (GCTD), a transit district, was formed and succeeded to all rights and obligations of the JPA. Currently, the following jurisdictions are members of GCTD:

City of Oxnard	City of Ventura	City of Port Hueneme
City of Ojai	County of Ventura	

Operationally GCTD personnel report to a General Manager who reports to the Board of Directors, which consists of one member of each jurisdiction of the District. Organizationally there are six departments under the General Manager with the director of each reporting directly to the General Manager and other employees reporting through various supervisory levels to the department directors.

### 1.3 COMPLIANCE WITH LAWS AND REGULATIONS

As a local government agency in the State of California, GCTD's procurement activities shall be in accordance with applicable State laws and regulations. For procurements funded in whole or in-part with grants from the Federal Transit Administration (FTA) for which GCTD is a recipient, GCTD shall also comply with the FTA Master Agreement published annually, particular Grant Agreements, FTA Circular 4220.1F, as updated, and other applicable laws, regulations and guidance related to aspects of third-party procurement conducted by GCTD. Only goods and services needed by GCTD may be purchased.

### 1.4 PURCHASING DUTIES AND FUNCTIONS

- a. The Purchasing Department is created within the Finance Department and given delegated authority stated in Section 2.5 by the General Manager. The Purchasing Manager shall be the administrator of the Purchasing Department. The purpose of the Purchasing Department is to:
  - provide fair and equitable treatment of all persons involved in public procurement.
  - maximize the purchasing value of public funds; and
  - provide safeguards for maintaining a procurement system of quality and integrity.
- b. All regulations may be liberally interpreted and applied to promote these purposes and policies.
- c. The duties, functions and responsibilities of the Purchasing Manager and the Department personnel are to:
  - 1) observe and enforce the procedures outlined in the District's Purchasing Manual.
  - 2) encourage competitive procurement at all times.

- 3) conduct the Purchasing Department in such a way that vendors will (a) be aware of the fairness of the awards, (b) be encouraged to continue bidding and (c) furnish competition to assure the District the highest quality materials at the lowest possible cost;
- 4) investigate and report any possibility of collusion among bidders and/or parties.
- 5) purchase or contract for all materials, tangible personal property, services, and professional services for the District.
- 6) keep abreast of current developments in the field of procurement, prices, market conditions and new products and investigate, research and analyze new developments in the field of procurement for the benefit of the District.
- 7) explore the possibilities of quantity buying to take full advantage of discounts.
- 8) join with other governmental agencies in cooperative purchasing plans when it is for the best interest of the District.
- 9) advise and assist in the formulation of policies and procedures relative to procurement activities of the District and to keep the General Manager, elected officials and departments advised of such policies and procedures.
- 10) ensure proper inspection of materials upon delivery, although the responsibility for such inspection may be delegated to the using department and subject purchased articles to such tests as deemed necessary to determine their compliance with specifications.
- 11) properly store and dispose of surplus and obsolete property and materials.
- 12) assist in maintaining fixed asset records and dispose of surplus fixed assets to obtain the greatest value to the District and to comply with applicable statutes.

## 1.5 DEFINITIONS

The definitions cited in FTA Circular 4220.1F, as updated, apply to this Procedure for purposes of conducting third-party procurements with FTA grant funding. Most of those definitions also apply to non-FTA grant-funded procurements except when aspects of the definition are peculiar to FTA or Federal grants or law. The following definitions are reiterated from or additional to those in the FTA Circular and apply to all GCTD procurement activities:

- a. *Authorizing Authority* means the General Manager or his/her designee for any purchase up to \$1500,000 or the Board of Directors for any purchase over \$1500,000.
- b. *Bidder* means the firm or individual submitting a bid in response to an invitation for bids (IFB). Often used interchangeably with "offeror" or "proposer" as a party responding to any solicitation.
- c. *Bidder's List* means a list of prospective vendors or contractors presumably capable of providing the items or services which are being solicited.
- d. *Buyer* is the person responsible, among other duties, to obtain quotes, bids or proposals for required goods and services from prospective suppliers, contractors or consultants, to conduct cost and price analysis, to conduct contract administration functions and to ensure compliance with various regulatory directions applicable to procurements in which the buyer is involved.
- e. *CAL-Card* is a California State sponsored purchase (credit) card authorized for use by specifically designated GCTD personnel in accordance with separate procedures.
- f. *Cardinal Change* means a major deviation from the original purpose of a contract's work or the intended method of achievement, or a revision of contract work so extensive, significant, or cumulative that, in effect, the contractor is required to perform very different work from that described in the original contract
- g. *Construction* means a project intended to build, erect, expand, alter, remodel or demolish a physical structure such as a building, ground covering or fuel station. It includes major painting or repair to GCTD facilities. The furnishing of supplies or materials for any construction project is included, but maintenance work, as defined below, is not.



- h. *Constructive Change* means an act or omission by GCTD personnel that, although not identified by a “change order,” does in fact cause a change in the contract work.
- i. *Contract or Purchase Order (PO)*. The document which reflects agreement between GCTD and a contractor to provide specified goods or services in accordance with various terms and conditions for valuable consideration, normally a monetary payment.
- j. *Contracting Officer* means the GCTD employee responsible for providing final approval on a specific purchase agreement with another party which will provide goods and/or services to GCTD in accordance with the agreement terms.
- k. *Equipment means furnishings, machinery, vehicles, rolling stock, and other personal property* used in GCTD’s business.
- l. *Federal Acquisition Regulation (FAR)* is the federal government’s procurement manual for contracting directly with its contractors, but typically does not apply to third-party contracting using FTA funding. An exception is use of Part 31 when cost analysis is applicable. Reference to the FAR in deciding other procurement issues can also be useful.
- m. *General Services* are services which do not require any unique or higher-level skill, special background, or training. Examples include janitorial, maintenance and uniform cleaning.
- n. *Goods and Services* is the collective description of that which GCTD may purchase including supplies, equipment, professional services, construction, real property or other commodities or services obtained from a vendor, supplier, contractor, leaser, licensor, or consultant.
- o. *Indefinite Delivery/Indefinite Quantity (IDIQ) Contracts*. IDIQ contracts provide for periodic ordering and delivery of specific goods or services at unit fixed prices based on previously bid or negotiated prices, terms and conditions which are applicable for a specified period.
- p. *Independent Cost Estimate (ICE)* is market research prepared by requisitioner to determine the anticipated cost prior to initiating a procurement. It assists GCTD to determine the appropriate project budget and to evaluate the reasonableness or unreasonableness of a bid or proposal.
- q. *Maintenance Work* means routine, recurring and usual work for the cleaning, repair and preservation or protection of GCTD-owned facilities, vehicles, and other equipment for their intended purposes. It can include minor repainting, resurfacing of facility asphalt/concrete, landscape maintenance, including mowing, watering, trimming, pruning, planting, replacement of plants and servicing of irrigation and sprinkler systems.
- r. *Modification or Change Order* means an action which calls for negotiation of a cost or price proposal arising out of a change in the contract or PO requirements.
- s. *Offeror or Proposer* is the firm or individual submitting a quote in response to a request for quotations (RFQ) or a proposal in response to a request for proposals (RFP). Often used interchangeably with “bidder.”
- t. *Professional Services* are those performed by persons or firms with specialized skill or knowledge such as by an attorney, doctor, architect, engineer, land surveyor, construction project manager, appraiser, expert or any consultant.
- u. *Purchase* is the process whereby one party acquires goods and services from another based on agreement between them. It includes mutual commitments which may be verbal or in writing, except in the case of real property which must be in writing.

- v. *Purchasing Officer* is the individual with overall responsibility and authority for efficient and cost-effective procurement accomplished in compliance with applicable laws and regulations.
- w. *Requisitioner* is the person who initiates the requirement for purchase of goods or services by describing to the buyer what is required to be purchased and when it is needed and will typically be the party to inspect and accept the goods and services when delivered.
- x. *System for Award Management (SAM)* is a Federal Government owned and operated free website that consolidated the capabilities in Central Contractor Registration (CCR)/FedReg, Online Representations and Certifications Applications (OCRA) and the Excluded Parties List System (EPLS).
- y. *Solicitation* is the process whereby a buyer solicits quotes, bids or proposals for goods or services GCTD has determined it needs as reflected in an adequate description and specification provided by the requisitioner.
- z. *Supplies* mean routine and/or frequently used items such as office supplies, janitorial supplies, materials, goods, tools or other commodities used in maintenance work and the general conduct of GCTD business, except supplies or materials used for construction as defined above.

### 2.1 PERSONNEL INVOLVED IN PROCUREMENT

The following personnel have responsibilities and authority as indicated:

- a. *Purchasing Officer.* The duties of the Purchasing Officer may be delegated as deemed necessary. The Purchasing Officer shall be the General Manager or his/her designated representative and have overall authority and responsibility for the following:
  - 1) Purchase or contract for needed GCTD goods and services in compliance with applicable laws, regulations, guidance, procedures identified in this document and such other administrative rules and regulations as prescribed by the General Manager.
  - 2) Be informed of current developments concerning purchasing methods, prices, market conditions and new products.
  - 3) Prescribe and maintain such forms as necessary for the proper operation of the purchasing system.
  - 4) Supervise the inspection and acceptance of all goods and services purchased in accordance with these procedures to assure conformance with GCTD specifications.
  - 5) Supervise the transfer of surplus and unused supplies and equipment or sale or disposal of such.
  - 6) Maintain up-to-date bidder's lists, vendor catalogs, files and such other records as needed to properly perform the purchase function.
  - 7) Ensure purchasing specifications are non-restrictive to encourage full and open competition.
  - 8) Ensure a viable Disadvantaged Business Enterprise (DBE) program is in place that complies with applicable federal directives; and
  - 9) Perform such other tasks as may be necessary for the proper conduct of purchasing of goods and services for GCTD.
- b. *Contracting Officer.* The duties of the Contracting Officer may be combined with the duties of any other officer or position in GCTD. The dollar value procurement threshold of GCTD Contracting Officers will be delegated separately in writing by the General Manager. In addition to performing the duties cited in subparagraph "c" below when deemed appropriate, the Contracting Officer, under the direction of the Purchasing Officer, has the authority and is responsible to do the following with regard to purchases within his/her assigned threshold:
  - 1) Review the activity and documentation associated with individual purchases as prepared by other personnel involved in the purchasing function or as the Contracting Officer himself or herself has prepared.
  - 2) Ensure compliance with rules and regulations applicable to each reviewed purchase transaction.
  - 3) Act in behalf of GCTD to approve or disapprove purchases by signing appropriate documents and/or making applicable computer entries.
- c. *Other Personnel Involved in the Purchasing Function.* Various personnel are assigned duties for procurement of goods and services. Some (e.g. Department Directors) may review and recommend approval of purchases that are above a procurement threshold that may be

delegated to them or act in the capacity of Contracting Officer to approve purchases below that threshold. Others (e.g. Purchasing Manager/DBE Officer, Buyer, Maintenance Administrative Supervisor and Maintenance Material Specialist and others who may obtain preliminary information used by others in the purchasing process) will perform the myriad of duties necessary prior to review and approval by the Contracting Officer or others. Those duties include compliance with this Resolution and other laws and regulations applicable to the function being performed.

## **2.2 SUFFICIENCY OF FUNDS**

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Except in cases of urgency or emergency as described below, the Purchasing Officer shall not issue any purchase order, authorize the execution of any contract or enter into any contract for purchasing of goods and services unless sufficient funding in the annual budget exists for the purchase.

- a. Urgency exists when services, repairs or replacements are immediately necessary to permit continued GCTD operations or services or to avoid an immediate danger to life. Purchasing procedures described herein are not required to resolve urgencies. The General Manager may declare urgency for any applicable purchase of \$~~1500~~,000 or less and, subject to confirmation by the Board of Directors at its next meeting, for any purchase in excess of \$~~1500~~,000.
- b. Emergency, as determined by the Board of Directors, includes, but is not limited to, conditions defined in Section 8558 of the Government Code, and exists when repair or replacement of facilities is necessary to permit continued operations of GCTD or to avoid danger to life or property. The Board of Directors, by majority vote, may proceed at once to replace or repair any GCTD facility without adopting plans or specifications or advertising solicitations. The work may be done under the direction of the General Manager or his/her designee, by contract, or by a combination of both. The Board of Directors delegates to the General Manager the power to declare an emergency subject to confirmation by the Board of Directors at its next meeting.

## **2.3 REQUISITIONS**

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Any department requesting goods and services shall initiate the procurement by creating a requisition directly into GCTD's Procurement management system (presently Fleet-Net). It shall include a complete description, specifications and/or scope of work, identify possible sources, indicate quantity required and provide other information that may be necessary or useful to the person processing the procurement for the required goods or services.

An Independent Cost Estimate (ICE) form shall be attached to Fleet-Net requisitions. ICE form is to be signed by the Director of the requesting department. See section 4.8(a) for further information regarding ICE form and content.

## **2.4 PURCHASE ORDERS**

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No procurement transaction should begin until the transaction has been approved by means of a completed purchase order or otherwise approved by the Purchasing Department.

### **Purchase Order as a Contract**

The purchase order is the document which creates a contract between GCTD and a vendor for purchases of goods or services. If the purchase order is issued based on a written quote, bid or proposal, upon receipt of the purchase order by the vendor, a contract is executed because GCTD has notified the vendor that the vendor's offer has been accepted.

If the purchase order is not based on a written quote, bid or proposal, the purchase order is not a contract until the vendor acknowledges receipt of purchase order, delivery of goods, or begins performance of services. This is because GCTD has made an offer to buy and the offer must be accepted by the vendor.

When a vendor accepts an order by purchase order, then unless GCTD is notified otherwise, the vendor accepts it under the terms and conditions stated on the order and are bound by this contract through completion of the transaction.

When GCTD issues a purchase order GCTD is bound also by the same terms and conditions.

Purchase orders may be canceled by the Purchasing Department upon written request by the using department but must meet any additional termination clauses in the contract.

## 2.5 APPROVAL LEVELS

Internal approval levels for individual purchases below the General Manager's dollar authority will be delegated separately in writing by the General Manager. For purposes of determining an authorized approving person for a proposed modification to a purchase transaction, the overall dollar amount of the purchase, including the proposed modification, applies. Splitting requirements to avoid processing the procurement under the next higher threshold is prohibited.

Dollar Limit	Approvals
Up to \$1 <del>50</del> 0,000	General Manager
Over <del>\$150</del> 0,000	Board of Directors Approval

## 2.6 REPORTING OF FORMAL PURCHASES TO THE BOARD OF DIRECTORS

A Board Report shall be prepared to recommend award of a contract over \$100,000. It shall indicate the pertinent circumstances and facts to allow the Board to make an informed decision. Formal purchases of more than \$100,000, but not more than \$1~~50~~0,000 may be awarded without Board approval, but will be documented in an informal report to the Board which includes the purpose, contractor, contract amount and comments applicable to the contract award process and/or results. However, the General Manager or the Board may direct that certain purchases of \$150,000 or less be reported to the Board for approval.

## 2.7 AVOIDING ORGANIZATIONAL CONFLICTS OF INTEREST

- a. Organizational conflicts of interest occur when GCTD contracts with a party and one or more of the following circumstances exist:
  - 1) Lack of Impartiality or Impaired Objectivity. When the contractor is unable, or potentially unable, to provide impartial and objective assistance or advice to GCTD due to other activities, relationships, contracts, or circumstances.
  - 2) Unequal Access to Information. The contractor has an unfair competitive advantage through obtaining access to nonpublic information during the performance of an earlier contract.
  - 3) Biased Ground Rules. During the conduct of an earlier procurement, the contractor has established the ground rules for a future procurement by developing specifications, evaluation factors, or similar documents.
- b. The existence of such conflicts is prohibited in GCTD procurements and their potential should be eliminated prior to contract award. To prevent organizational conflicts of interest, the following actions will be taken for each procurement:
  - 1) Each person involved in the procurement process, including those generating requirements for purchase and buying personnel, shall be made aware of the above definition of organizational conflicts of interest.
  - 2) Those persons shall apply that awareness to the circumstances of each procurement in which they are involved and assess the specifications or scope of work requirements in

light of known or possible factors which might result in a prohibited conflict. If applicable, possible conflicts may be discussed in group meetings such as weekly Team Meetings.

- 3) If a potential conflict is identified, but the assigned buyer has not been made aware of it, the person with knowledge of the potential shall notify the buyer.
- 4) When made aware of the potential conflict, the buyer shall take action such as the following to eliminate the conflict prior to contract award:
  - Remove the contractor with the conflict from the bidding process and possible contract award
  - Include a contract provision requiring agreement by the contractor to not be involved in any conflict or with a specific potential conflict that has been identified.
  - For A&E contracts, require that the contractor not participate in the resultant construction contract or have a relationship with the construction contractor.

*See Exhibit A- GCTD Process to Analyze Potential Organizational Conflict of Interest*

## **2.8 PROTEST PROCEDURES**

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A separate Procurement Protest Procedure has been promulgated by GCTD and should be followed in the event of a protest. Basic guidance and directions to obtain the full procedure should be included in formal purchase solicitations.

*See Exhibit B- Procurement Protest Procedures.*

### 3.1 INTRODUCTION

It is the intent of Gold Coast Transit District (GCTD) that its employees, officers and agents have and maintain the highest degree of ethical conduct in all relationships between themselves and representatives of GCTD contractors or subcontractors, both actual and potential. This procedure is established to describe criteria for maintaining such relationships and avoiding compromising situations, either real or apparent. For purposes of helping to ensure the integrity of consultants under contract to GCTD in matters addressed herein, such consultants shall be expected to adhere to the provisions and requirements pertaining to GCTD employees as included in this procedure.

*See Exhibit C- Gold Coast Transit District (GCTD) Standards of Conduct Procedure.*

### 3.2 PROCUREMENT ETHICS CODE

- a. GCTD employees are prohibited from making, participating in, or in any way attempting to use their GCTD employment to influence a GCTD decision in which they know or have reason to know they have a financial interest.
- b. No employee of GCTD involved in purchasing 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. "Confidential Information" is defined as any proprietary, privileged, or nonpublic information, coming to the employee's attention as a result of employment by GCTD, the knowledge of which makes financial gain possible.
- c. GCTD employees, officers and/or directors, members of their immediate families, their partners or an organization that employs or is about to employ the employee, officer and/or director, his/her immediate family and/or his/her partner, shall not be financially interested in any GCTD contract made by them in their official capacity. They shall not be purchasers at any sale or vendors at any purchase made by them in their official capacity.

The standards governing the determination as to whether a financial interest exists are set forth in Sections 1090, 1091, and 1091.5 of the California Government Code.

- d. No Director, officer, employee, or agent of GCTD knowingly shall solicit, accept, or agree to accept gratuities, favors or anything of more than a nominal monetary value in connection with actual or potential procurement and contracting activities. Under this policy, the term "nominal monetary value" shall be defined as a value of fifty dollars (\$50) or less.
- e. GCTD employees and consultants shall conduct themselves as follows whenever the employee or consultant has, or may have, a financial interest in making or participating in making any governmental decision:
  - 1) Employees: An employee shall immediately report the nature of the matter and the existence of a conflict to his or her supervisor or manager so that the work may be assigned to another person or so that other appropriate action may be taken.
  - 2) Consultants: The consultant shall immediately report the nature of the matter and the existence of the conflict to the General Manager, who shall determine the appropriate action to be taken.
- f. The General Manager or his/her designated representative shall review every procurement to identify and prevent real and apparent organizational conflict of interest. An organizational conflict of interest exists when the nature of the work to be performed under an existing or proposed contract or subcontract may, without some restrictions on future activities, result in or may result in an unfair competitive advantage to the actual or potential contractor or subcontractor or impair their objectivity in performing work under the contract or subcontract. See

paragraph 5 in Chapter 2 above.

### **3.3 DISCIPLINE**

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The violation of any of these Standards of Conduct will subject the violator to any disciplinary proceedings or action deemed appropriate by the GCTD General Manager, up to and including dismissal.



#### 4.1 COMPETITION

In general, full and open competition is required in all procurement transactions. Lack of planning or limited availability of Federal assistance does not justify other than full and open competition. Conducting procurements with other than full and open competition is authorized for most micro-purchases (see 3a below) and in specific circumstances when other than full and open competition is authorized (see 3i below). However, splitting requirements to avoid competition is prohibited.

#### 4.2 SOLICITATION REQUIREMENTS AND RESTRICTIONS

Each written solicitation for goods and services will include the following:

- a. Description of the Goods or Services. Include a clear and accurate description of GCTD's technical requirements that provides for full and open competition and use, when practicable, terms of functions to be performed or level of performance required, including the range of acceptable characteristics or minimum acceptable standards. Detailed product specifications should be avoided if possible but are not prohibited. Quantities should be limited to actual needs at the time of purchase. Special cases and prohibitions include the following:
  - 1) Brand Name or Equal. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements of the goods being purchased, a "brand name or equal" description may be used in the solicitation to define the required performance or other salient characteristics of the named brand item. More guidance and examples are in FTA's "Best Practices Procurement Manual."
  - 2) Prohibitions. Solicitation requirements which are restrictive to full and open competition and are prohibited include, but are not limited to, the following:
    - a) Imposing excessive qualifications (business requirements) or unnecessary experience requirements on bidders and offerors.
    - b) Requiring improper prequalification contrary to Part VI of FTA Circular 4220.1F.
    - c) Requiring excessive bonding which may exclude firms with limited bonding capacity.
    - d) Citing a brand name only without allowing for offers of "an equal" product or allowing "an equal" product without listing salient characteristics to be met.
    - e) Specifying in-state or local geographical preferences or evaluating bids/offers in light of such preferences. Exceptions are architectural and engineering (A&E) services, licensing requirements and purchases related to major disasters or emergency relief.
    - f) Engaging in a practice whereby an organizational conflict of interest exists.
    - g) Supporting or acquiescing in noncompetitive pricing practices between firms or affiliated companies.
    - h) Taking any arbitrary action in the procurement process.
- b. Evaluation Factors. All factors to be used in evaluating solicitation responses shall be identified in the solicitation.
- c. Contract Type. Each written solicitation should indicate the type of contract that will be awarded. With some exceptions, all purchase orders and contracts shall be firm fixed price (FFP). Other types include variations on FFP, such as inclusion of incentives or economic price adjustments

and indefinite quantity/indefinite delivery. Various types of cost reimbursement contracts are available but will be applicable to GCTD procurement in extremely limited circumstances. Any contract type other than FFP requires a written justification in the file except as authorized in subparagraph 2) below. Prohibited or restricted types of contracts are as follows:

- 1) Cost plus a percentage of cost contract pricing methods are prohibited.
- 2) Time and material (T&M) contracts may be used only when no other contract type is suitable and shall specify a ceiling price which the contractor may exceed only at its own risk.
  - a) A T&M contract may be appropriate when the actual cost of specific services, such as by a consultant or attorney, performed in accordance with the scope of work cannot be individually determined in advance (e.g. legal review of a specific contract) so that a fixed price could be determined at the time of award. However, labor rates for services and provision for material related to applicable in-scope work can be contractually established so that when the services are performed and material used, there is a method to account for the cost of them.
  - b) Procurement of repair services for vehicles, the fuel station or other equipment for which it is not feasible to completely determine the specific parts and/or labor required until work on the item is at least partially completed (i.e. tear down and quote) may by their nature be initially considered unsuitable for a contract type other than T&M. No further justification is required, but a ceiling or “not-to-exceed” price shall be included in the contract. Once a FFP price is quoted and agreed to, the contract price should be made firm.
- d. Other Requirements Affecting the Goods or Services to be Acquired. Federal, State or local requirements that affect the contract scope and performance shall be cited in the solicitation and the resultant contract.
- e. Other Requirements Affecting the Bidder or Offeror and the Contractor. Any Federal, State and local requirements the bidder or offeror must satisfy before or after award shall be cited in the solicitation and the resultant contract.
- f. Reservation of Rights. If GCTD intends to reserve its rights to award to other than the low bidder/offeror or to reject all bids/offers, the solicitation should state those reservations.
- g. Specific Solicitation Provisions. Appendix D of FTA Circular 4220.1F lists federally required and other model clauses and identifies required certifications, reports, forms and other items to be included in solicitations and resultant contracts. Solicitations shall include listed items as applicable. The FTA “Practices Procurement Manual” provides suggested or required wording for many of the required clauses. Staff is to use FTA Clauses Checklist to ensure every purchase order or other contract includes any required clauses in accordance with FTA Circular 4220.1F.
- h. Protections Against Performance Difficulties. Various provisions will be included in contracts to assist in resolution of potential post-award difficulties. They include the following as applicable:
  - 1) Changes. Provisions allowing for unilateral changes by GCTD and to recognize changed conditions will be included in most contracts, except for routine supply contracts.
  - 2) Remedies. The following are available to help resolve difficulties:
    - a) Liquidated Damages. If GCTD reasonably expects to suffer damages for failure of the contractor to meet contract specifications or delivery requirements in a measurable way, although the extent of the damages is uncertain and difficult to

determine, a liquidated damages provision may be included in the contract. If so, the purchase file should indicate the calculation and rationale for the established damage amount(s) in the provision. Liquidated damages can be used to encourage settlement of difficulties and, if appropriate, may be renegotiated to achieve that result.

- b) Violation, Breach or Disputes. Solicitations and contracts for large purchases will include a provision to provide for resolution of disputes.
- c) Termination. Termination for default and termination for convenience provisions shall be included in contracts over \$10,000.

### 4.3 METHODS OF PROCUREMENT

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The following procurement methods are available to purchase goods and services for GCTD. The General Manager may determine, on a case-by-case basis, that compliance with the formal procurement procedures identified below is not required for a procurement under \$150,000, in which case the small purchase procedures shall apply.

- a. Micro-Purchases. (under ~~\$10,000~~3000)  
Micro-purchases may be made without obtaining competitive quotations if the purchaser determines the price is fair and reasonable and properly documents the appropriate rationale. There should be equitable distribution among qualified vendors. Quotes may be obtained verbally or in writing. Minimum documentation is required to show how it was determined the price was fair and reasonable.
- b. Small Purchases. (over ~~\$10,000~~3000 and under ~~\$10049,000~~999)  
Price or rate quotations shall be obtained from an adequate number of qualified sources (usually three or more). Normally, a Request for Quotations (RFQ) will be issued to obtain quotes, but quotes but may be done verbally. The purchase file shall reflect the results of competition or document lack of it and otherwise document how the price was determined to be fair and reasonable.
- c. Large/Formal Purchases by Sealed Bids/Invitation for Bids (IFB). (~~\$100~~50,000 and above)  
For sealed bid procurements bids are publicly solicited and a firm fixed price (lump sum or unit price) is awarded to the responsible bidder whose bid conforms to the material terms of the IFB and is lowest in price.
  - 1) When Appropriate. An IFB is appropriate when complete, adequate, precise and realistic specifications apply, there are two or more responsible bidders willing and able to compete, the successful bidder can be selected based only on price-related factors listed in the IFB and there will be no discussions with bidders after bid submission.
  - 2) Procurement Procedures. IFBs shall be publicly advertised, solicited from an adequate number of known suppliers, have adequate specifications whereby a bidder will be able to submit a proper bid, allow sufficient time to prepare bids, allow for rejection of any or all bids for legitimate reasons, provide for public opening of bids and result in a fixed price contract including those with incentives and economic price adjustment provisions.
- d. Large/Formal Purchases by Competitive Proposals/Request for Proposals (RFP). (~~\$100~~50,000 and above)  
Use of competitive proposals is appropriate when sealed bids are not appropriate and more than one proposal from a willing and able source is expected.
  - 1). When Appropriate. Competitive proposals should be used when a performance or functional specification is used, when it's uncertain if more than one bid would be received in response to an IFB, when other than price-related factors will be used to evaluate proposals or when discussions with individual offerors are expected after proposal submission.

2) Procurement Procedures. RFPs shall be publicly advertised, specify evaluation factors and their relative importance, solicit proposals from an adequate number of qualified sources, establish and use a specific method to conduct technical evaluations and determine the most qualified offeror. Award will be made to the responsible offeror whose proposal is most advantageous to GCTD with price and other factors considered.

Alternately, award may be made on a “best value” basis when the RFP states award will be so based and identifies the factors on which award will be made. The evaluation factors should reflect subject matter and elements most important to GCTD and may include, but not be limited to, technical design, technical approach, length of delivery schedules, quality of proposed personnel, past performance and management plan. The determination of “best value” will be based on an analysis of the tradeoff of qualitative technical factors and price or cost factors.

- e. Two Step Procurement. Two-step procedures may be used in both sealed bid and competitively negotiated procurements.
- 1) Review of Technical Qualifications and Approach. The first step is review of the prospective contractors’ technical approach and technical qualifications to carry out that approach. The competitive range may be reduced to prospective contractors that demonstrate a technically satisfactory approach and have satisfactory qualifications.
  - 2) Review of Bids and Proposals Submitted by Qualified Prospective Contractors. The second step consists of soliciting and reviewing complete bids (sometimes referred to as “two-step sealed bidding”) or proposals (as in “competitive negotiations”), including price, submitted by each prospective contractor determined to be qualified. Absent exceptional circumstances, bids or proposals should be solicited from at least three qualified sources.
- f. Architectural and Engineering (A&E) and Related Services. Procurement of A&E and related services applicable to or leading to construction projects shall use qualifications-based procedures outlined in the “Brooks Act.” Such services include program management, feasibility studies, preliminary engineering, design, architectural, engineering, surveying, mapping and construction management applicable to construction projects including research, planning, development, design, construction alteration, or repair of real property. Such services that are not construction-related will use procedures identified in subparagraphs “a” through “e” above.

The Brooks Act requires the following steps:

- 1) Evaluate the qualifications of all offerors without considering price and determine the most qualified offeror.
- 2) Open the price proposal of and conduct negotiations with only the most qualified offeror to achieve a fair and reasonable price.
- 3) If agreement with the most qualified offeror is not achieved, it is eliminated from the process and can no longer be involved.
- 4) Open the price proposal of the next most qualified offeror and conduct negotiations. If agreement on a fair and reasonable price cannot be made, conduct negotiations with successive offerors in descending order of qualifications until agreement is achieved. Each offeror with which agreement is not made is eliminated from further participation in the procurement.

- g. Design-Bid-Build Construction. This method requires separate contracts for design services and for construction. Use qualifications-based procurement procedures for design services and sealed bidding or competitive negotiation procedures for construction. See subparagraphs c and d above.
- h. Design-Build Construction. This method provides for simultaneous procurement of design and construction. Award is made to one entity that will be responsible for the entire project. If design services are predominant, Brooks Act qualifications-based procurement is required. If construction is predominant, sealed bids or competitive negotiation procedures will be used. Selection may be based on a one-step or two-step method as described in FTA Circular 4220.1F.
- i. Other Than Full and Open Competition. Procurements without full and open competition may be conducted when at least one of the following circumstances is present:
  - 1) Competition Adequacy. After several sources are solicited and specifications determined not to be unduly restrictive and can't be changed to encourage more competition, a determination that competition is adequate may be made.
  - 2) Sole Source. When goods or services are available from only one responsible source and no other goods or services will satisfy the requirements, a sole source award may be made. This includes requiring an existing contractor to make a contract change that is beyond the scope of the contract. Written justification, which provides one or more of the following rationales that are explained in greater detail in FTA Circular 4220.1F, as updated, will be included in the file to substantiate award on a sole source basis:
    - a) A unique capability or availability exists. This includes existence of a unique or innovative concept, patent or data rights restrictions, follow-on contracts when substantial duplication of cost is involved or a follow-on contract for continuation of a project wherein award to another contractor would result in unacceptable delay in meeting GCTD's needs.
    - b) A single bid or proposal is received in response to a solicitation. A written determination of whether adequate competition existed or not will be made.
    - c) There is an unusual and compelling urgency.
    - d) One of the following conditions, among others authorized in the Federal Acquisition Regulation (FAR) and previously determined to be acceptable by FTA, exists:
      - i. There is a statutory requirement resulting in only one contractor able to perform the project.
      - ii. A national emergency exists.
      - iii. Services of an expert or neutral person are needed in case of a protest, dispute, claim or litigation.
      - iv. It is not in the public interest.
      - v. Another reason listed in paragraph 3i of Chapter VI of FTA Circular 4220.1F.

See Exhibit D - Method of Procurement Decision Matrix

#### 4.4 OTHER PROCUREMENT TECHNIQUES

The following techniques should be considered for use when appropriate:

- a. *CAL-Card.* The State of California credit card may be used by authorized GCTD employees in accordance with the conditions cited in the separate “CAL-Card Use Procedure.”
- b. *Indefinite Delivery/Indefinite Quantity (IDIQ) Contracts.* This variation of an FFP contract may be useful to purchase items over a period of time when the actual quantities needed during that time are not known up front. Minimum and maximum quantities shall be stated in the contract.
- c. *Blanket and Basic Agreements.* Blanket purchase agreements, basic agreements and basic ordering agreements as defined in the Federal Acquisition Regulation (FAR) may be established to cover circumstances cited in the FAR.
- d. *Use of Contractor Forms.* Some contractors, especially in licensing agreements, require use of their own forms. Care should be taken to ensure that GCTD’s interests are protected and applicable required provisions are included in these industry contracts.
- e. *Electronic Procurement.* Use of electronic means by e-mail to deliver solicitations, accept responses, transmit contracts and provide for communication with contractors is authorized. In this method by which e-mail replaces the postal or another delivery system, care should be taken to ensure that all prospective bidders receive the same information in a timely manner and that there is provision for acknowledging receipt by e-mail.

With the approval of the General Manager, a more elaborate electronic commerce system, including reverse auctions, may be used in compliance with the procedures in FTA Circular 4220.1F.

#### **4.5 CONSTRUCTION CONTRACT REQUIREMENTS**

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Additional requirements, including the following, apply to construction contracts:

- a. *Bonding.* Bonds are required for contracts over the dollar thresholds specified below. Bonds shall be from acceptable sureties as listed in the Department of Treasury’s Listing of Approved Sureties (Department Circular 570). Bonds are an expense to the contractor. Excessive bonding can result in restricting competition and may not be condoned by FTA. The following policies apply:
  - 1) *Bid Guarantee.* For contracts over \$100,000, the bidder shall provide a bid guarantee with its bid equal to 5% of the bid, either as a bid bond, certified check or other negotiable instrument.
  - 2) *Performance Bond.* For contracts over \$100,000, to ensure completion of the contracted work, a performance bond for 100% of the contract price is required.
  - 3) *Payment Bond.* For contracts over \$25,000, to ensure payment of people supplying labor and material for the contract, payment bond minimums are as follows for the stated contract amounts, unless otherwise required by State law:
    - a) Less Than \$1 Million. 50% of the contract price applies
    - b) More Than \$1 Million, but Less Than \$5 Million. 40% of the contract price applies.
    - c) More Than \$5 Million. Two and one half million dollars applies.
- b. *Seismic Safety.* A provision on seismic safety shall be included in contracts for construction of new buildings or additions to existing buildings.

- c. *Prevailing Wages.* Any FTA assisted project exceeding \$2,000 shall include a provision requiring compliance with the Davis-Bacon Act which requires laborers and mechanics to be paid prevailing wages as determined by the Secretary of Labor and to pay them not less than once a week. Each solicitation should include the current prevailing wage determination. Since the State of California Department of Industrial Relations also issues prevailing wage determinations which may differ from those of the Labor Secretary, GCTD will require contractors to refer to both the Federal and State wage determinations and pay the higher amount if there is conflict. State funded contracts over \$1,000 up to \$2,000 shall include prevailing wage requirements using only State wage determinations.
- d. *Other Provisions.* As addressed further in FTA Circular 4220.1F, provisions pertaining to equal employment opportunity, the Copeland “Anti-Kickback” Act, the Contract Work Hours and Safety Standards Act, Buy America, project labor agreements and accessibility may be required. Particular contract dollar thresholds may dictate when some of these provisions are necessary.

#### **4.6 DISADVANTAGED BUSINESS ENTERPRISE (DBE)**

GCTD is committed to a DBE Program as directed in 49 CFR Part 26 and reflected in GCTD's separate DBE Program document. In part GCTD will strive to create a level playing field on which DBEs can compete fairly for contracts and subcontracts resulting from GCTD's procurement activities. A DBE provision will be included in each solicitation and contract above the micro-purchase threshold to identify program information and requirements.

#### **4.7 FEDERALLY REQUIRED PROVISIONS AND CERTIFICATIONS**

Pursuant to FTA Circular 4220.1F, specific Federally mandated provisions (clauses) will be included in GCTD solicitations and contracts depending on factors such as the type and dollar value of the procurement. In addition, and in compliance with some of those provisions (e.g. Buy America, Lobbying), certifications will be obtained from bidders or offerors to denote their compliance with the applicable requirements.

*See Exhibit J- FTA Clauses Checklist*

#### **4.8 COST AND PRICE ANALYSIS**

Cost or price analysis shall be performed in connection with all procurements including contract modifications to determine prices are fair and reasonable. It is performed by the person (buyer) who obtains price quotes, bids or proposals. The method and degree of analysis depends on the facts and circumstances of each procurement. Briefly, price analysis is simply a comparative process involving total price and cost analysis is an element-by-element analysis of the costs which make up the total price. In addition to the below guidance, see Chapter 5 of the FTA's “Best Practices Procurement Manual” and references addressed therein.

- a. *Cost Estimate (ICE).* An ICE is the starting point for cost and price analysis.
  - 1). ICE Content and Form. The content of an ICE is based on the particular circumstances of the procurement. It can range from a simple budgetary estimate to a complex estimate based on inspection of the product itself and review of drawings, specifications and prior procurement data. The word “independent” does not imply that it is performed by someone outside GCTD unless GCTD does not have the expertise to do it, such as may be the case for a large, complex procurement.

A form on which an independent cost estimate (ICE form) will be made shall be prepared and revised, as needed, by the Director of Finance. If the specific rationale is not listed on the form or if more room is needed, additional pages may be attached. For more complex procurements requiring in-depth analysis, particularly in larger dollar value sole source situations for services or non-commercial items, a report or memo from an outside source, which has provided assistance with an analysis, may be attached. For example for architect

and engineering services requiring a cost proposal (i.e. sole source), percentage of construction cost would not be sufficient to substantiate the buyer's cost analysis.

For purchase of multiple items that will be solicited in one procurement action and for which the ICE for each item is based on the same rationale, the rationale should be stated on the ICE Form and a list of the items and their respective estimates can be listed on the lower part of the form or provided in an attachment to it.

2). Submission of an ICE. For a new procurement an ICE form, signed by the Director of the requesting department will be submitted as an attachment to the requisition created in GCTD's Procurement management system (presently Fleet-Net) with the initial requirement and prior to solicitation by the buyer. In cases in which that is not feasible (e.g. emergencies, expedited procurements), it shall be provided prior to receipt of quotes, bids or proposals by the buyer. When a contract/PO change is necessary and the price will be affected, an ICE shall be submitted using the same process as a new procurement by the requisitioner with the request for the change, or prior to receipt of the contractor's cost proposal for the change.

3). Maintenance Department Purchases. Due to limited personnel to perform the various functions of requisitioning, buying and receiving in the Maintenance Department, the ICE Form for purchases of parts, equipment, repair or other services will be signed and dated by a Maintenance Material Specialist, Maintenance Supervisor or the Director of Fleet and Facilities.

*See Exhibit E- GCTD Independent Cost Estimate Form.*

b. *Price Analysis.* A form of price analysis is used on every purchasing action. In order of preference the accepted forms of price analysis are:

1) Adequate price competition which is dependent upon at least two offerors each able to satisfy the requirements, which contend independently and which submit priced responsive offers for a contract to be awarded to one with the lowest evaluated price. If these conditions are met, price competition is adequate unless one of the following exists:

- a) The solicitation was made under conditions that unreasonably deny one or more known and qualified offerors an opportunity to compete.
- b) The low competitor has such an advantage over other competitors that he/she is practically immune to the stimulus of competition.
- c) The lowest final price is not reasonable, and this finding can be supported by facts.

2) Prices set by law or regulation

3) Established catalog prices and market prices which require one of the following:

- a) A catalog or price list which pertains to items that are commercial in nature and are sold in substantial quantities to the general public. Request a copy of the document or at least the page on which the price appears.
- b) A current market price established in the usual or ordinary course of business between buyers and sellers free to bargain. These prices shall be verified by buyers and sellers who are independent of the offeror. If names of other commercial buyers and sellers are not known, ask the offeror.



- 4) Comparison to previous purchases to include taking into consideration changes in quantity, quality, delivery schedules, and the economy that cause price variations. Analyze differences and ensure the prior price was fair and reasonable.
- 5) Comparison to a valid independent cost estimate (ICE) which has been verified as to facts, assumptions and judgments to include the method and data used in developing the estimate.
- 6) Value analysis which requires looking at the item and the function it performs to determine its worth.

See Exhibit F- Price Analysis/Reasonableness.

- c. **Cost Analysis.** Cost analysis is more complex and time-consuming than price analysis. As such, it should be used when price analysis alone is not sufficient to determine the price is fair and reasonable. Essentially, cost analysis is the process of obtaining cost or pricing data (a breakdown of costs) from prospective contractors or subcontractors, verifying and evaluating the accuracy and allowability of cost data; and projecting cost data from known to estimated costs to show the effect on overall prices. When cost analysis is considered necessary, the "Pricing Guide for FTA Grantees" is a good place to start. When staff capability is limited in conducting effective cost analysis, outside assistance may be appropriate.

#### **4.9 EVALUATIONS**

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In evaluations of bids or proposals consider all evaluation factors specified in the solicitation and evaluate the bids or offers only on the evaluation factors stated in the solicitation. Evaluation factors may not be changed after bids or proposals have been submitted without re-opening the solicitation. When awarding a contract that will include options, the option quantities or periods shall be included in the evaluation of bids or offers.

#### **4.10 CONTRACT AWARD**

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- a. **Award Only to a Responsible Bidder or Offeror.** GCTD will only award contracts to "responsible" contractors possessing the ability, willingness, and integrity to perform successfully under the terms and conditions of the contract. A responsible prospective is one who meets FTA standards set forth below:
  1. Have adequate financial resources or the ability to obtain such resources as required during performance of the contract.
  2. Is able to comply with the required or proposed delivery or performance schedule, taking into consideration all existing business commitments, commercial as well as governmental.
  3. Has a satisfactory record of performance. Documented past unsatisfactory performance will ordinarily be sufficient to justify a finding of non-responsibility.
  4. Has a satisfactory record of integrity and business ethics.
  5. Is otherwise qualified and eligible to receive an award under applicable laws and regulations.
  6. Has the necessary organization, experience, operational controls, and technical skills, or the ability to obtain them.
  7. Has the necessary production, construction, and technical equipment and facilities, or the ability to obtain them.

- b. *Best Value.* “Best value” describes a competitive, negotiated procurement process whereby GCTD reserves the right to select the offer deemed most advantageous and of greatest value to the agency. The award selection is based upon consideration of a combination of technical and price factors such that a recipient may acquire technical superiority even if it must pay a premium price. If the agency elects to use the best value selection method as the basis for award, the solicitation must contain language which establishes that an award will be made on a best value basis.

A premium price is the difference between the price of the lowest priced acceptable proposal and the one the GCTD has determined offers the agency the best value. The term “best value” also means the expected outcome of an acquisition that, in the agency’s estimation, provides the greatest overall benefit in response to its material requirements. To achieve best value in the context of acquisitions for public transportation purposes, the evaluation factors for a specific procurement should reflect the subject matter and the elements that are most important to the recipient. While FTA does not mandate any specific evaluation factors, the recipient must disclose in its solicitation the evaluation factors it establishes and the order of importance of those factors. Evaluation factors may include, but are not limited to, technical design, technical approach, length of delivery schedules, quality of proposed personnel, past performance, and management plan. This list is intended neither to limit nor to dictate qualitative measures GCTD may employ, except that those qualitative measures established by GCTD must support the purposes of the Federal public transportation program.

- c. *Award to Other Than the Lowest Bidder or Offeror.* Pursuant to 49 U.S.C. 5325(c), contracts may be awarded to other than the lowest bidder or offeror to meet the intent of 49 U.S.C. Chapter 53 which includes improved long term efficiency and lower long-term costs. Award may also be made to the offeror whose price proposal isn’t the lowest when so authorized in the solicitation evaluation factors. In either of these two cases, the solicitation will include a statement reserving the right to award a contract to other than the low bidder or offeror.
- d. *Award Approval and Documents.* Although verbal agreements may be made without preparation of a purchase order (PO) form, particularly for small purchases of material or services needed quickly, routine use of that process can lead to payment or other difficulties and should be avoided. Typically, a PO form (unilateral agreement) will be prepared to fully document agreement with the vendor. It shall be approved by the GCTD Contracting Officer with authority for the dollar value of the purchase and be provided to the contractor with applicable terms and conditions.

Contracts over the small purchase threshold require signatures of the contractor’s authorized representative and the GCTD Contracting Officer with authority for the dollar value of the purchase (bilateral agreement). Agreements under the small purchase threshold may also be made bilateral if so determined by the Contracting Officer. Although a PO form should be prepared for accounting and receiving purposes, it may or may not be provided to the contractor with the contract document which otherwise includes all the applicable requirements, specifications, terms, conditions and provisions.

- e. *Purchase File Documentation.* In addition to the PO form and contract document, the purchase file will include other documentation to reflect the history of activity regarding the purchase to include, but not be limited to, as applicable, the below topics. Use of a GCTD form developed to provide relevant information is acceptable, but the size and complexity of the procurement may require more in-depth explanations, justifications, analyzes, etc.

- 1) *Procurement Method.* The micro-purchase and small purchase methods are determined by the expected dollar value of the procurement. When a large purchase method is by sealed bid, competitive proposal, two-step or qualifications-based procedures or for construction using design-bid-build or design-build procedures, a reference to the applicable sub-paragraph under paragraph 3 of this chapter is sufficient for providing the rationale. A separate sole source justification will be in the file for non-competitive procurements.

- 2) **Contract Type.** A contract type other than firm fixed price will be justified in writing unless it is a time and material contract for certain repair services as described in paragraph 2.c.2).b). of this chapter.
- 3) **Contractor Selection.** The reasons for contractor selection or rejection shall be stated. Included should be a determination as to the contractor's responsibility and indication that the contractor is not listed in the System for Award Management (SAM).
- 4) **Cost or Price.** Justify the contract cost or price by indicating the results of cost or price analysis including retention of the ICE form applicable to the purchase.
- 5) **FTA Required Clauses Checklist.** Staff is to use FTA Clauses Checklist to ensure every purchase order or other contract includes any required clauses in accordance with FTA Circular 4220.1F.

See Exhibit G- Procurement History Form

#### **4.11 RESPONSIBILITY EVALUATION**

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Evaluation of the responsibility of every prospective contractor may be made based upon the following sources:

- a. A list of debarred, suspended or ineligible firms or individuals.
- b. Buyer is to query the System for Award Management (SAM), prior to award, verify entity has "no exclusions" and place documentation of the entity's "no exclusions" status in the Purchase Order file. Buyer may not award to any entity with exclusions.
- c. From the prospective contractor's bids and proposals, replies to questionnaires, financial data such as balance sheets, profits and loss statements, cash forecasts, and financial histories of the contractor and affiliated concerns; current and past production records, list of tools, equipment, and facilities, written statements or commitments concerning financial assistance and subcontracting arrangements.
- d. Publications, including credit ratings, trade and financial journals, and business directories and registers may also be used.
- e. References such as suppliers, subcontractors, customers of the prospective contractor, banks and financial institutions, commercial credit agencies, other government agencies, purchasing and trade associations, and better business bureaus and chamber of commerce.
- f. Documented past performance on contracts with GCTD.

#### **4.12 CONTRACT ADMINISTRATION**

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- a. *Changes and Modifications.* The Contracting Officer is responsible to issue, evaluate and make necessary decisions involving contract changes including processing any claim of constructive change. Change orders may be issued without the contractor's consent, but it is preferred that agreement be made prior to the change if it can be reasonably done. Cost justification shall support each change and be included in the purchase file. The cost of the change shall also be allowable, allocable, be within the scope of the contract and reasonable for completion of the project. See FTA's "Best Practices Procurement Manual" for more on this topic.
- b. *Cardinal Changes.* Cardinal changes are prohibited.

- c. *Inspection and Acceptance.* Upon receipt of goods and services and, if necessary, during manufacturing, construction or preparing goods or conducting services, the requiring Department Director or designee is responsible to inspect the goods or services to ensure they meet or are on track to meet the contract specifications or scope of work. Involvement of the buyer may be necessary, particularly if there is a problem and/or a contract change appears to be needed. When the completed goods or services satisfactorily meet the contract specifications or scope of work, they may be accepted, most often using a receiver form. If a receiver form is not used, the invoice will be marked showing acceptance, if appropriate, by the requiring Department Director or designee.
- d. *Payment.* Accounting personnel will process invoices for payment. Upon receipt of an invoice, it will be matched against the contract and the receiver, if any. Assuming there are adequate funds available, the invoiced amount is within the terms of the contract and a proper receiver form has been received, payment may be made. If there is no receiver form, approval of the applicable Department Director or designee should be obtained before making payment. Typically, payment is made by the 10<sup>th</sup> of the month following receipt of an acceptable invoice or acceptance, whichever comes later.
- 1) *Advance Payments.* Advance payment to contractors before receipt of contracted goods or services may be made with GCTD or local funds, but are prohibited using FTA funds with some exceptions cited in FTA Circular 4220.1F.
  - 2) *Progress Payments.* Progress payments may be made for work not yet completed provided adequate security including written documentation to substantiate completion of work to date for which payment is requested. See FTA Circular 4220.1F for more details.
- e. *Documentation of Post-Award Activity.* Substantive discussions, meetings or other situations pertaining to a contract, whether involving the contractor or just GCTD or other personnel, should be committed to writing to help protect GCTD's interests and avoid confusion and conflict at a later time.
- f. *Exercise of Options.* Options shall be exercised only after the Procurement Department makes a written determination, approved by the General Manager or the Director of Finance that such exercise is the most advantageous method of fulfilling the needs of GCTD, price and other factors considered.
- 1) GCTD must ensure that the exercise of an option is in accordance with the terms and conditions of the option provisions stated in the initial contract awarded.
  - 2) An option may not be exercised unless Purchasing has determined that a new solicitation would fail to produce a better price or a more advantageous price than that offered by the option.
  - 3) If the option was evaluated during the original contract award, an ICE is not required to be submitted prior to exercising. If the option was *not* evaluated as part of the original award, the exercise of the option is considered to be a sole source procurement, and so would require an ICE and sole source justification form.

*See Exhibit H- Price Analysis/Reasonableness for Options.*

## CHAPTER 5 - OTHER THAN OPEN MARKET PROCUREMENTS

In addition to open market procurements addressed in Chapter 4, other procurement sources are available to GCTD. Procurement history should be documented similar to open market procurements. Other sources are as follows with additional details as to their use and restrictions cited in FTA Circular 4220.1F:

### 5.1 JOINT PROCUREMENTS

A joint procurement exists when two or more purchasing entities agree initially to issue one solicitation and one contract for a specified quantity of goods or services to provide better pricing and other benefits. All FTA and other Federal requirements, including required clauses and certifications, apply and shall be incorporated in the purchase documents as applicable.

### 5.2 FEDERAL EXCESS AND SURPLUS PROPERTY

Use of such property managed by GSA is encouraged by FTA.

### 5.3 FEDERAL SUPPLY SCHEDULES (FSS)

Use by GCTD of FSS is limited to purchase of information technology (IT) in FSS 70 and for items needed to prepare for or recover from a major disaster as declared by the President of the United States. All FTA and other Federal requirements, including required clauses and certifications, apply and shall be incorporated in the purchase documents as applicable. Unless otherwise justified, competition will still be sought and a determination of price reasonableness made. Prices lower than listed in the FSS may be sought.

### 5.4 STATE CONTRACTS AND COOPERATIVES

California and some other states issue contracts and/or schedules for goods and services, often at discount prices because of volume purchasing power. Use by GCTD of these contracts and schedules can be directly with the contractors or through joining a cooperative purchasing organization. In either case GCTD's procurements using such contracts shall include all applicable FTA and other Federal requirements, including required clauses and certifications. Purchases through cooperative agreements should be considered "assignments" and treated as indicated in paragraph 5.5 below. Since some of these contracts may be considered by the awarding party to have been awarded non-competitively, it is necessary to determine if adequate competition was obtained and, if not, to seek it as feasible.

### 5.5 EXISTING CONTRACTS

Under certain conditions, when another FTA recipient has awarded a contract that has option quantities of goods or services that were within its reasonably foreseeable needs at the time of Purchase Order issuance that have become greater than its current needs, or awarded an indefinite delivery/indefinite quantity (IDIQ) contract with quantities greater than its current needs, the right to purchase some or all of those additional quantities may be assigned to GCTD. This method of assignment of contract rights is known as "piggybacking." Conditions that apply to assignment to GCTD under existing contracts include the following:

- a. The original contract was awarded in accordance with FTA requirements for quantities which the awarding agency considered it would reasonably need when the contract was awarded. See the piggybacking worksheet attached (Exhibit I).
- b. An assignment provision must be in the original contract.
- c. In the case of exercising assigned options the following additional requirements apply:
  - 1) The terms and conditions of the option to be exercised are substantially similar to the terms and conditions of the option when the contract was originally awarded.
  - 2) A determination has been made that the option price is better than prices in the market or the option is otherwise more advantageous

- 3) In the following conditions, exercising an option will be considered a sole source:
  - a) The option was not evaluated as part of the original contract award.
  - b) A lower or higher price is negotiated prior to exercising the option unless the new price can be reasonably determined from the terms of the original contract or as the result of Federal actions that can be reliably measured (e.g. prevailing wages).

*See Exhibit I- Piggyback Worksheet*

## CHAPTER 6 - REVENUE CONTRACTS AND PROPERTY DISPOSAL

### 6.1 REVENUE CONTRACTS

GCTD may issue contracts to generate revenue. If there are limited contracting opportunities (i.e. several potential competitors so there is more demand than supply), a competitive process will be used to provide an equal chance to obtain the limited opportunity. If contract opportunities are open (i.e. there's more supply than demand), competition is not necessary.

### 6.2 DISPOSAL OF SURPLUS AND/OR NON-REPAIRABLE MATERIALS

The Purchasing Officer shall have and may delegate the authority to dispose of surplus and/or non-repairable GCTD property or material which either has no further financial record value or has an estimated fair market value of \$3,000 or less per item or batch of the same item.

Disposal of property or materials with any financial record value over \$3,000 or for GCTD property or materials which have an estimated fair market value over \$3,000 shall be by determination of the Board of Directors at a regularly constituted board meeting.

The Director of Finance shall specifically approve disposal of any item in which FTA has a remaining financial interest.

In any event the process for disposal shall take into consideration the cost of employee time and effort and related expenses associated with it. Such expenses can include, but are not limited to, storage facilities, control systems, advertising and display of items for bidding. The following disposal requirements apply depending on the estimated fair market value of the items:

- a. Items that are broken, damaged or obsolete such that there is no perceived fair market value, as determined by the Director of Finance and reviewed by the Director of Operations & Maintenance, may be thrown away or contributed to a local recognized charity.
- b. Items with any perceived fair market value will be disposed of by the seeking of bids from GCTD employees and/or the general public or assigned to an auction or sales company which has the expertise/facilities to dispose of GCTD property. Items for which no bids are received may be thrown away or contributed to a local recognized charity.

*End of Text*

## EXHIBIT A



### **GCTD PROCESS TO ANALYZE POTENTIAL ORGANIZATIONAL CONFLICTS OF INTEREST**

Organizational conflicts of interest occur when GCTD contracts with a party and one or more of the following circumstances exist:

- a. **Lack of Impartiality or Impaired Objectivity.** When the contractor is unable, or potentially unable, to provide impartial and objective assistance or advice to GCTD due to other activities, relationships, contracts, or circumstances.
- b. **Unequal Access to Information.** The contractor has an unfair competitive advantage through obtaining access to nonpublic information during the performance of an earlier contract.
- c. **Biased Ground Rules.** During the conduct of an earlier procurement, the contractor has established the ground rules for a future procurement by developing specifications, evaluation factors, or similar documents.

The existence of such conflicts is prohibited in GCTD procurements and their potential must be eliminated prior to contract award. To prevent organizational conflicts of interest, the following action will be taken for each procurement:

- Each person involved in the procurement process, including those generating requirements for purchase and buying personnel, shall be made aware of the above definition of organizational conflicts of interest.
- Those persons shall apply that awareness to the circumstances of each procurement in which they are involved and assess the specifications or scope of work requirements in light of known or possible factors which might result in a prohibited conflict. If applicable, possible conflicts may be discussed in group meetings such as weekly Team Meetings.
- If a potential conflict is identified, but the assigned buyer has not been made aware of it, the person with knowledge of the potential shall notify the buyer.
- When made aware of the potential conflict, the buyer shall take action such as the following to eliminate the conflict prior to contract award:
  - Remove the contractor with the conflict from the bidding process and possible contract award
  - Include a contract provision requiring agreement by the contractor to not be involved in any conflict or with a specific potential conflict that has been identified.
  - For A&E contracts require that the contractor not participate in the resultant construction contract or have a relationship with the construction contractor.



## EXHIBIT B



### PROCUREMENT PROTEST PROCEDURES

#### 1. Submission of Protests

- a. Authorized Protesters. Protests may be submitted by interested parties who are prospective bidders or offerors for a GCTD contract.
- b. Contents of a Protest. All protests shall be in writing and clearly state the grounds for the protest and the relief sought. The name of the protester and the GCTD solicitation or contract number or a description of the material or services being purchased shall also be provided. The grounds for the protest must be supported to the fullest extent feasible. Additional materials in support of an initial protest will be considered only if filed within three working days of the time limits specified in section 1d below.
- c. Where to Submit Protests. Protests shall be submitted to the GCTD Director of Finance by one or more of the following means:
  - 1) Via U.S. Postal Service, common carrier or hand carried to 1901 Auto Center Drive, Oxnard, CA 93036
  - 2) To FAX number (805) 487-3532
- d. Protest Deadlines.
  - 1) Pre-bid protests against the solicitation document or its contents must be received prior to bid opening or the proposal due date. within 7 calendar days (i) after all requests for clarifications and requests for approved equals have been answered by GCTD or, if no requests for clarification or approved equals are received, (ii) after the period for requests for clarifications or approved equals has closed.
  - 2) Pre-award protests against making an award must be received after receipt of proposals or bids, but before award of a contract within 7 calendar days after notification of proposed award by GCTD staff following opening.
  - 3) Post-award protests must be received within 10 calendar days of award of a contract.
- e. Valid Complaints and Spurious Protests. These procedures are intended to ensure that valid complaints are responded to and are properly handled.

Spurious protests may be subject to civil proceedings for the recovery of compensatory and/or punitive damages.

f. Confidentiality.

- 1) Materials submitted by a protester will not be withheld from any interested party apart from GCTD or from any Government agency that may be involved in the protest, except to the extent that the withholding of information is permitted or required by law or regulation.
- 2) If the protester considers that the protest contains proprietary material, a statement must be affixed to the front page of the protest document and the alleged proprietary information must be so identified wherever it appears.

g. Effect of Protests on the Procurement Process.

- 1) When a protest has been timely filed before the opening date of bids or closing date of proposals, GCTD will not open bids or proposals prior to the resolution of the protest.
- 2) When a protest has been timely filed before the contract award, GCTD will not make an award prior to the resolution of the protest.
- 3) When a protest has been timely filed after the award of a contract and prior to the resolution of the protest, GCTD will notify the Contractor to suspend activity.
- 4) The following exceptions apply to items 1), 2) and 3) above:
  - a) The items to be procured are urgently required; or
  - b) Delivery or performance will be unduly delayed by failure to either make the award promptly or to continue with the procurement; or
  - c) Failure to make prompt award or to continue with the procurement will otherwise cause undue hardship to GCTD or other local, state or Federal governments.

## **2. Processing a Protest within GCTD.**

- a. Receipt of Protest. Upon receipt of a properly submitted protest, the Director of Finance and Administration may provide notice of receipt of the protest to the other bidders or proposers.
- b. Protest Review, Investigation, Findings and Determination. The Director of Finance shall, with the assistance of Staff personnel, legal counsel and others, as appropriate, investigate the validity of the protest and the action to be taken. A conference on the merits of the protest with the Director of Finance may be held at the request of the protester. The request for a conference should be

made expeditiously to not interfere with the resolution of the protest and in no case later than the timeframe for submitting the protest. Within 15 working days after receipt of a protest, the Director of Finance will prepare and submit a written report notifying the protester and interested parties of his/her findings, determination and of the procedures for requesting reconsideration. If the protester fails to submit a request for reconsideration as indicated in 2c below, the determination by the Director of Finance becomes GCTD's final determination.

c. Reconsideration and Final Determination.

- 1) Reconsideration of a decision by the Director of Finance may be requested by the protester by submitting the request to the General Manager of GCTD so it is received within 10 working days after the decision is issued. The request shall contain a detailed statement of the factual and legal grounds upon which reversal or modification is deemed warranted, specifying any errors of law made and/or providing information not previously considered. The protest shall not be considered pending during the 10-day period specified in this paragraph.
- 2) Upon receipt of the request for reconsideration, the General Manager may schedule an informal administrative hearing with the protester and the Director of Finance, if warranted, the hearing shall be held no later than 15 working days after receipt of the request for reconsideration.
- 3) The General Manager shall issue GCTD's final written determination of the reconsidered protest within five working days of the administrative hearing.

**3. Other Considerations.**

Effect of Judicial Proceedings. GCTD may refuse to decide any protest wherein litigation is before a court of competent jurisdiction or has been decided on its merits by such a court. The foregoing shall not apply where the court requests, expects, or otherwise expresses interest in GCTD's decision.

## EXHIBIT C



### **GOLD COAST TRANSIT DISTRICT (GCTD) STANDARDS OF CONDUCT PROCEDURE**

#### I. Introduction.

It is the intent of Gold Coast Transit District (GCTD) that its employees, officers and agents have and maintain the highest degree of ethical conduct in all relationships between themselves and representatives of GCTD contractors or subcontractors, both actual and potential. This procedure is established to describe criteria for maintaining such relationships and avoiding compromising situations, either real or apparent. For purposes of helping to ensure the integrity of consultants under contract to GCTD in matters addressed herein, such consultants shall be expected to adhere to the provisions and requirements pertaining to GCTD employees as included in this procedure.

#### II. Procurement Ethics Code.

- A. GCTD employees are prohibited from making, participating in, or in any way attempting to use their GCTD employment to influence a GCTD decision in which they know or have reason to know they have a financial interest.
- B. No employee of GCTD involved in purchasing 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. "Confidential Information" is defined as any proprietary, privileged, or nonpublic information, coming to the employee's attention as a result of employment by GCTD, the knowledge of which makes financial gain possible.
- C. GCTD employees, officers and/or directors, members of their immediate families, their partners or an organization that employs or is about to employ the employee, officer and/or director, his/her immediate family and/or his/her partner, shall not be financially interested in any GCTD contract made by them in their official capacity. They shall not be purchasers at any sale or vendors at any purchase made by them in their official capacity.

The standards governing the determination as to whether a financial interest exists are set forth in Sections 1090, 1091, and 1091.5 of the California Government Code.

- D. No Director, officer, employee or agent of GCTD knowingly shall solicit, accept, or agree to accept gratuities, favors or anything of more than a nominal monetary value in connection with actual or potential procurement and contracting activities. Under this policy, the term "nominal monetary value" shall be defined as a value of fifty dollars (\$50) or less.
- E. GCTD employees and consultants shall conduct themselves as follows whenever the employee or consultant has, or may have, a financial interest in making or participating in making any governmental decision:
  - 1. Employees: An employee shall immediately report the nature of the matter and the existence of a conflict to his or her supervisor or manager so that the work may be assigned to another person or so that other appropriate action may be taken.
  - 2. Consultants: The consultant shall immediately report the nature of the matter and the existence of the conflict to the General Manager, who shall determine the appropriate action to be taken.

- F. The General Manager or his/her designated representative shall review every procurement to identify and prevent real and apparent organizational conflict of interest. An organizational conflict of interest exists when the nature of the work to be performed under an existing or proposed contract or subcontract may, without some restrictions on future activities, result in or may result in an unfair competitive advantage to the actual or potential contractor or subcontractor or impair their objectivity in performing work under the contract or subcontract.

### III. Discipline.

The violation of any of these Standards of Conduct will subject the violator to any disciplinary proceedings or action deemed appropriate by the GCTD General Manager, up to and including dismissal.

EXHIBIT D



**METHOD OF PROCUREMENT DECISION MATRIX**

To best determine which method of procurement is suitable, classify your situation by checking off the appropriate boxes in each of the procurement's methods below. All elements must apply to use that method.

<b>RFQ/IFB/RFP/PO NO:</b>	
<input type="checkbox"/> Independent Cost Estimate (ICE) – for every procurement over <del>\$10,300,000</del>	
<p><b>1. <input type="checkbox"/> Small Purchase</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Amount \$10,000 to \$100,000</li> <li><input type="checkbox"/> 3 or more vendor quotes obtained</li> </ul>	<p><b>3. <input type="checkbox"/> Sole Source/Brand</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Only one source/Brand available</li> <li><input type="checkbox"/> Sole Source/Brand Justification in file</li> </ul>
<p><b>2. <input type="checkbox"/> Competitive Procurement</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Amount \$100,000 and above</li> <li><input type="checkbox"/> Multiple Sources Available</li> <li><input type="checkbox"/> Not an Emergency Purchase</li> </ul> <p><i>Choose one below:</i></p> <p><b>a. <input type="checkbox"/> Sealed Bid – Invitation for Bid (IFB)</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Complete &amp; adequate specification or purchase description</li> <li><input type="checkbox"/> 2 or more responsible bidders willing to complete</li> <li><input type="checkbox"/> Selection can be made on basis of price</li> <li><input type="checkbox"/> Procurement suitable for firm, fixed price</li> </ul> <p><b>b. <input type="checkbox"/> Informal Competitive Bidding – Request for Quotation (RFQ)</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Complete &amp; adequate specifications or purchase description</li> <li><input type="checkbox"/> Does not require complicated solicitation evaluation</li> </ul> <p><b>c. <input type="checkbox"/> Competitive Proposal – Request for Proposal (RFP)</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Complete specification not feasible</li> <li><input type="checkbox"/> Bidder input needed for specification</li> <li><input type="checkbox"/> 2 or more responsible bidders willing to compete</li> <li>Discussion needed with bidder after receipt of proposals, prior to award</li> </ul>	<p><b>4. <input type="checkbox"/> Emergency Procurement (subset of Sole Source/Brand)</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> This is a health &amp; safety issue or necessary to continue GCTD operations or to avoid an immediate danger to life or property (unusual or compelling urgency).</li> </ul> <p><b>5. <input type="checkbox"/> Time and Material Contract (subset of RFP)</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> No other type of contract is suitable</li> <li><input type="checkbox"/> Fixed price cannot be set for work</li> <li><input type="checkbox"/> Complete extent of work unknown, whether time, or material use, or both</li> <li><input type="checkbox"/> Not-To-Exceed stated in PO/contract</li> </ul> <p><b>6. <input type="checkbox"/> State or Another Agency Contract</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Assignment Letter</li> <li><input type="checkbox"/> Piggybacking Checklist Completed</li> <li><input type="checkbox"/> Copy of Contract</li> </ul>
<b>Signature:</b>	<b>Date:</b>

## EXHIBIT E

### GCTD INDEPENDENT COST ESTIMATE

(Not Required for Micro-Purchases of \$10,000 or Less)

Item /service/project description:

<input type="checkbox"/> Single Item: Unit of issue:	Quantity:	Unit Price Estimate: \$	Total ICE Amount: \$
<input type="checkbox"/> Service Estimate: \$			
<input type="checkbox"/> Multiple Items – See attached page(s)			

GRANT FUNDED:  YES     NO    If YES, Indicate GRANT Number:

**1. METHOD OF OBTAINING THE ESTIMATE:**

- I have obtained the following estimate from
- Published Price List/Past Pricing (date)
- Engineering or technical estimate
- Independent Third-Party estimate
- Other (specify)

**2. COST ESTIMATE DETAILS**

Through the method stated above it has been determined that the total cost of goods/services is expected to be: \$ . Details are shown below:

**A. Cost of Standard Items**

Product	Cost (\$/ea)		Notes/Data Source
	Delivered	No Freight	

**B. Cost of Services, Repairs or Non-Standard Items**

Item/Task							
Materials	Other Direct Costs	Labor <i>(rate, hours)</i>	Labor Class	Allocated Overhead	SG&A	Profit	Total

The preceding ICE was prepared by:

\_\_\_\_\_ Name

\_\_\_\_\_ Title

\_\_\_\_\_ Signature

\_\_\_\_\_ Date

**EXHIBIT F**



**PRICE ANALYSIS/REASONABLENESS**

PO/Solicitation #		Date:	
Vendor:			
Dollar Value:			
Description			

**RATIONALE:**

Analysis: Prices for this PO/Contract were reviewed by Procurement Staff and determined to be fair and reasonable for the following reason(s):

- Award based on lowest, responsive and responsible bid received – see bid abstract
- Compared with prices paid for similar goods or services
- Award based on availability (as stated in procurement docs)
- Pricing deemed reasonable based on past purchase history
- Established catalog prices and market prices
- Comparison to a valid ICE
- The use of another Agency’s contract, the following was verified
  - At least two responsible offerors responded to the solicitation
  - Each offeror was able to satisfy the requirements of the solicitation
  - The offeror independently contended for the contract that was to be awarded to the responsive and responsible offeror who submitted the lowest evaluated price
  - Each offeror submitted priced offers responsive to the expressed requirements of the solicitation
  - FTA clauses
    - included
    - added to PO

Print Name	Signature



**EXHIBIT G**



**PROCUREMENT HISTORY FORM**

PO #:	RFP#:	Date:
Description:		
Vendor:		

**ICE** *(in file)*

- Received – Amount \$
- N/A – under \$~~10,000~~~~3000~~

**CONTRACT TYPE** *(Check appropriate type)*

- Firm Fixed
- Cost Reimbursement
- Time and Materials *(justification in file)*

**PROCUREMENT METHOD** *(see Procurement Decision Matrix)*

- RFP
- RFQ
- IFB
- Sole Source *(justification in file)*

**VENDOR/CONTRACT SELECTION** *(describe method and rationale for selection)*

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**CHECKLIST**

<input type="checkbox"/> I.C.E. Form <i>(required for all purchases over \$10,000<del>3000</del>)</i> <input type="checkbox"/> Sole Source <i>(if applicable)</i>  <input type="checkbox"/> Time and Material Justification Form <i>(if applicable)</i> <input type="checkbox"/> Cost/Price Analysis <ul style="list-style-type: none"> <li><input type="checkbox"/> Cost Analysis</li> <li><input type="checkbox"/> Price Analysis/Reasonableness Form <i>(in file)</i></li> </ul>	<input type="checkbox"/> Responsibility Determination Form <i>(in file)</i> <input type="checkbox"/> System for Award Management (SAM) <i>(in file)</i>  <input type="checkbox"/> Contractor's License checked <i>(if applicable)</i> <input type="checkbox"/> Insurance received <i>(if applicable)</i> <input type="checkbox"/> Board Report <i>(if applicable)</i> <input type="checkbox"/> Procurement History Form <i>(in all files)</i>
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**CONTRACT ADMINISTRATION** *(post-award)*

1. Goods/Services Received <input type="checkbox"/> YES <input type="checkbox"/> NO	2. Satisfactory Condition/Quality <input type="checkbox"/> YES <input type="checkbox"/> NO
3. If Vendor Failed to Meet Contract Terms – Explain:	
4. Would you use/recommend this vendor again? <input type="checkbox"/> YES <input type="checkbox"/> NO	
5. Vendor invoice received <i>(date)</i>	6. Forwarded for payment <i>(date)</i>

Print Name	Signature
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EXHIBIT H



**PRICE ANALYSIS/REASONABLENESS  
For OPTIONS**

PO/Solicitation #		Date:	
Option Period:		Dollar Value:	
Vendor:			
Description			

**RATIONALE:**

Analysis: Prices for this PO/Contract Option were reviewed by Procurement Staff and determined to be fair and reasonable for the following reason(s):

- A new solicitation would fail to produce a better price or a more advantageous price than that offered by the option.
- An information analysis of prices or an examination if the market indicates that the option price is better than prices available in the market or that the option is the more advantageous offer.
- The time between the award of the contract containing the option and the exercise of the option is so short that it indicates the option price is the lowest price obtainable or the more advantageous offer.

**Procurement Staff:**

Print Name	Signature

**Manager/Director Approval**

Print Name	Signature

## EXHIBIT I



### PIGGYBACKING WORKSHEET

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

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

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

**Note:** This worksheet is based upon the policies and guidance expressed in (a) the FTA Administrator's "Dear Colleague" letter of October 1, 1998, (b) the [Best Practices Procurement Manual](#), Section 6.3.3—*Joint Procurements of Rolling Stock and "Piggybacking,"* and (c) [FTA Circular 4220.1F](#)

## EXHIBIT J



RFP/IFB#:	Date:	
Description:	Buyer:	
*Automatic deficiency if clause is not included in contract	APPLICABLE	NOT APPLICABLE
<b>ALL FTA THIRD-PARTY CONTRACTS AND SUBCONTRACTS</b>		
Incorporation of Federal Transit Administration (FTA) Terms		
No Obligation by the Federal Government <i>(Third parties by use of disclaimer)</i>		
Federal Changes		
Civil Rights		
Access to Records		
Program Fraud and False or Fraudulent Statements or Related Acts		
Energy Conservation		
Disadvantaged Business Enterprise (DBE) Participation Goal		
Veterans Employment <i>(capital projects, to the extent practicable)</i>		
Prompt Payment and Return of Retainage		
Safe Operations of Motor Vehicles		
Special Notification requirements for States (applicable to States)		
<b>THESE PROVISIONS APPLIES TO ALL AGREEMENTS THAT INVOLVE RESEARCH AND DEVELOPMENT</b>		
Rights in Data and Copy Rights		
Patent Rights		
<b>THESE PROVISIONS APPLIES TO ALL AGREEMENTS THAT INVOLVE A&amp;E OR CONSTRUCTION FOR NEW BLDG OR ADDITIONS</b>		
Seismic Safety Requirements <i>(required for third party contracts)</i>		
*Davis Bacon & Copeland Anti-Kickback Acts		
*Contract Work Hours & Safety Standards Act <i>(in excess of \$100,000 that involve the employment of Mechanics or Labors)</i>		
*Bonding <i>(for construction or facility improvement contracts or subcontracts exceeding the simplified acquisition Threshold).</i>		
*EEO <i>(all contracts that meet the definition of federally assisted construction contracts).</i>		
Copeland Anti-Kickback Act		
Special DOL Clause >\$10,000		
<b>THIS PROVISION APPLIES TO ALL AGREEMENTS THAT INVOLVE ROLLING STOCK OR FACILITIES CONSTRUCTION/RENOVATION</b>		
ADA Access Requirements		
<b>THIS PROVISION APPLIES TO ALL AGREEMENTS THAT INVOLVE THE TRANSPORTATION OF PERSONS (by air) OR PROPERTY (by ocean vessels)</b>		
Fly America		
Cargo Preference		
<b>THIS PROVISION APPLIES TO ALL AGREEMENTS FOR PIGGYBACK PROCUREMENTS</b>		
Assignment of Contracts		
<b>THIS PROVISION APPLIES TO AGREEMENTS IN EXCESS OF OVER \$10,000 PER EPA DESIGNATED ITEMS</b>		
*6002 of the Solid Waste Disposal Act		
*Termination for Convenience		
*Termination for Default		
<b>THIS PROVISION APPLIES TO AGREEMENTS IN EXCESS OF OVER \$25,000</b>		

Suspension and Debarment		
Notice to FTA/Inspector General regarding fraud, waste, abuse or other legal matters		
<b>THIS PROVISION APPLIES TO AGREEMENTS IN EXCESS OF OVER \$100,000</b>		
Buy America		
<b>THIS PROVISION APPLIES TO AGREEMENTS IN EXCESS OF OVER \$150,000</b>		
*Clean Water		
*Clean Air		
Lobbying		
<b>THIS PROVISION APPLIES TO ALL AGREEMENTS IN EXCESS OF OVER \$250,000</b>		
Disputes		
Administrative, Contractual or legal remedies in instances where contractors violate or breach contract terms and provide for such sanction and penalties as appropriate.		
<b>THIS PROVISION APPLIES TO ALL AGREEMENTS IN EXCESS OF OVER \$1,000,000</b>		
Iran Contracting Act		
<b>REQUIRED CERTIFICATIONS, REPORTS, AND FORMS</b>		
Bus Testing Certification and Report		
TVM Certifications		
Buy America Certifications		
Pre-Award Audit <i>(Rolling Stock Procurements &gt;\$100,000)</i>		
Pre-Award Buy America Certifications <i>(Rolling Stock &gt;\$100,000)</i>		
Pre-Award Purchaser's Requirement Certifications <i>(Rolling Stock)</i>		
Post-Delivery Audit Rolling Stock		
Post-Delivery Buy America Certifications <i>(Rolling Stock &gt;\$100,000)</i>		
Post-Delivery Purchaser's Requirements Certifications <i>(Rolling Stock)</i>		
On-Site Inspector's <i>(Report Rolling Stock procurements for more than 10 vehicles for areas &gt;200,000 in population 20 for areas&lt;200,00 in populations)</i>		
Federal Motor Vehicles Safety Standers Per-award and Post-Delivery Certifications <i>(Rolling Stock)</i>		
Excluded Parties Listing System Search <i>(procurements &gt;\$25,000)</i>		
Lobbying Certification <i>(Procurements&gt;\$100,000)</i>		
Standard Form LLL and Quarterly Updates <i>(when Required) (procurements&gt;\$100,000 where contractor engages in lobbying activities)</i>		
<b>OTHER REQUIRED ITEMS (NON-STATE RECIPIENTS ONLY)</b>		
Contract Administration System		
Record of Procurement History		
Protest Procedures		
Selection Procedures		
Independent Cost Estimate (I.C.E.)		
Cost/Price Analysis		
Responsibility Determination		
Justification for Noncompetitive Awards		
No excessive bonding requirements		
No exclusionary specifications		
No geographic preferences (Except for A&E Services)		
Evaluation of Options		
Exercise of Options		
<b>NON-CONSTRUCTION ACTIVITIES</b>		
Non-construction Employee Protection <i>(contract work hours and safety standards Act) (applicable to all turnkey rolling stock and operational contracts)</i>		
<b>TRANSIT OPERATIONS</b>		
Transit Employee Protective Arrangements <i>(applies to section 5307,5309,5311 and 5316 projects)</i>		
Charter Service Operations		
School Bus Operations		

Drug and Alcohol Testing (Safety Sensitive Functions)		
<b>PLANNING, RESEARCH, DEVELOPMENT, AND DOCUMENTATION PROJECTS</b>		
*Right to Invention Made Under Contract or Agreement (contracts that meet the definition of "funding Agreement" Under 37 CFR 401.2)		
<b>NON-FTA CLAUSES</b>		
Drug and Alcohol Testing		
Federal, State and Local Laws		
Assignability Clause ( <i>Piggyback Procurements</i> )		

NAME

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SIGNATURE