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# Procurement Manual

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## PROCUREMENT VISION

Be Trusted Procurement Partners

## PROCUREMENT MISSION STATEMENT

Enhancing Transit Experience Through Procurement Excellence

## PROCUREMENT CORE VALUES

### **Professional Competence**

We are only effective in our work if we share up to date knowledge. We are experts in our field that value continuous learning and improvement. We leverage our experience and associations to provide the best procurement advice and support possible.

### **Steadfast Ethics**

We are protectors of our agency's business reputation. We set an example for other employees to follow and encourage others to do what is right and uphold our ethical ideals.

### **Accountability**

We accept responsibility for our performance whether as a team or as individuals. Our success can be meaningfully measured against realistic goals that we set. We follow through on our commitments.

### **Integrity**

We are honest in all that we do and say. We are trusted guardians of public resources and won't compromise that trust or allow fraud, waste or abuse.

### **Mutual Respect**

We honor one another with respect and value diversity; allowing us to leverage our individual strengths, nurture a positive work environment, and foster open and honest communication.



## REVISION HISTORY

Revision Date	Revised by	Approved by	Description of change
03/05/2019	Kunjan Dayal, Stacy Hupp, Chad Jorissen	Kunjan Dayal	Revised dollar thresholds, updated Simplified Purchase Process, and other changes.
03/01/2020		Kunjan Dayal	Updates to legal advertising; change from FTA to Federal where applicable.
03/01/2021		Kunjan Dayal	Purchase Authority updated; added new Section 37.4. RCW based contract authority; Other administrative cleanup.

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community transit

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## INTRODUCTION

### Purpose

The purpose of this manual is to communicate agency-wide procurement policies and internal/external client facing procurement procedures to ensure all procurements actions comply with local, state, and federal laws and the resolutions of the Community Transit Board of Directors.

### Responsibility of Procurement

The Procurement and Contracts Manager/Disadvantaged Business Enterprise Liaison Officer (DBELO) shall be responsible for Community Transit procurement and shall, consistent with all operating parameters (see below), make all purchases of materials, supplies, public works, equipment, services and other personal property for all divisions, departments, and offices of the agency. The duties and responsibilities designated in this manual shall be performed by Procurement and Contracts Manager/DBELO under the direction of the Director of Administration and Chief Executive Officer.

It is the individual responsibility of each employee involved in the procurement process to understand the meaning and intent of the policies and procedures. If there is any question or concern relative to either the policies or procedures, or the ability of the employee to respond effectively to the requirements of the procedures, then it is the responsibility of the employee to bring such matters to the attention of the Procurement and Contracts Manager/DBELO immediately, prior to conducting and/or finalizing any procurement actions.

### Operating Parameters

All Community Transit procurements shall be conducted in compliance with the following operating parameters, as applicable:

1. Community Transit Board Resolution No. 01-17, 05-11 including revisions or amendments.
2. Revised Code of Washington (RCW) Titles 39.04, 39.08, 39.12, 39.80 and 36.57a.
3. FTA Full Funding Grant Agreement and Master Grant Agreements (FTA funded procurements only) <http://www.fta.dot.gov/documents/18-Master.pdf> and revisions.
4. Fixing America's Surface Transportation (FAST) Act: <https://www.govinfo.gov/content/pkg/BILLS-114hr22enr/pdf/BILLS-114hr22enr.pdf>
5. OMB's Uniform Administrative Requirements (Super Circular): [https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200\\_main\\_02.tpl](https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl)
6. FTA Circular 4220 (Third Party Contracting Guidelines) and revisions (federally funded procurements only) <https://www.transit.dot.gov/funding/procurement/third-party-procurement/fta-circular-4220>
7. FTA's Best Practices Procurement and Lessons Learned Manual.

8. Other applicable federal requirements, especially if a different federal agency that FTA's funds are applied.

Community Transit may make changes to this Procurement Manual due to process updates and changes in federal or state laws etc.

Community Transit acknowledges and adopts the use of purchasing terms and definitions as described by The Institute for Public Procurement (NIGP) in the *Dictionary of Purchasing Terms*.

Readers are encouraged to read this manual together with guidance provided by NIGP and the FTA's Best Practices Procurement and Lessons Learned Manual. If funds are received from another federal agency, then their requirements must be followed unless the federal agency or FTA directs otherwise.

Please contact the Procurement and Contracts Manager/DBELO for additional guidance.

## Principles of Procurement

Community Transit's procurement principles and strategies are based on the following:

### *Ethical Procurement Practices*

The objectives of ethical procurement practices are to promote impartiality, fairness, independence, openness, integrity and professionalism in all dealings with vendors.

Reference [Section 3](#) – Ethics, and NIGP's [Code of Ethics](#) for additional guidance.

### *Objectives of Full and Open Competition*

The objectives of full and open competition are:

1. To obtain the desired quality and service at a reasonable cost.
2. To provide equal opportunity to all qualified vendors to participate in our business opportunities.
3. Advance the interests of Community Transit in all transactions with vendors.

### *Meaning of Full and Open Competition*

1. Procurement practices are transparent to Community Transit, vendors, and the public.
2. All procurement personnel accept their accountability to Community Transit.
3. Vendors have easy access to do business with Community Transit.
4. To obtain best value for tax dollars, procurement personnel will outreach to potential vendors to promote a full and open competitive environment, to the extent possible and based on requirements of Procurement Thresholds.

Some of the situations considered restrictive of competition include:

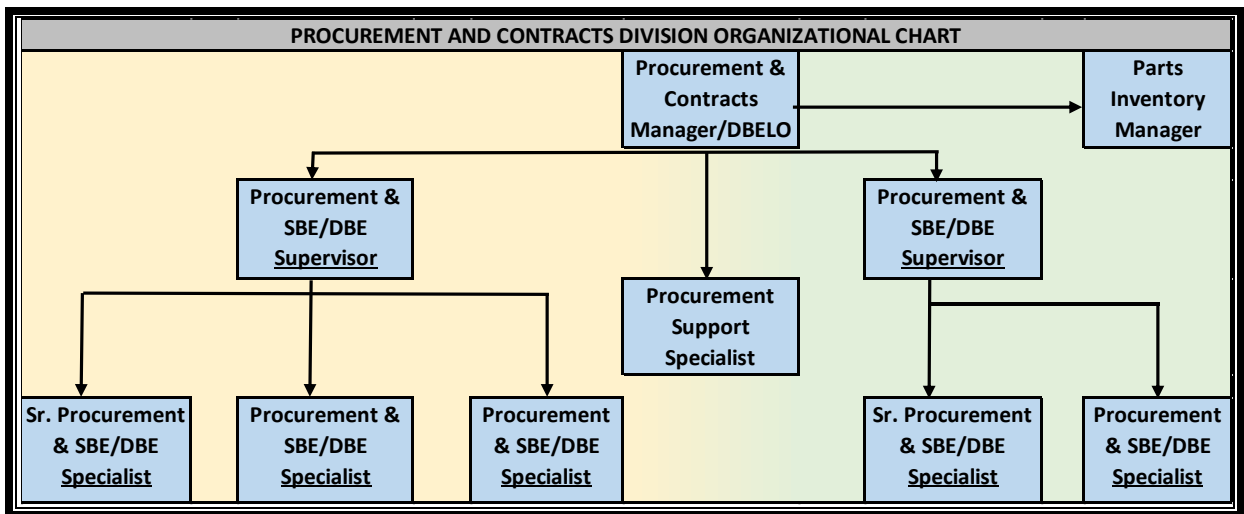
1. Unreasonable requirements placed on firms in order for them to qualify.
2. Unnecessary experience and excessive bonding and/or insurance requirements.
3. Noncompetitive bidding practices between firms or between affiliated companies.
4. Noncompetitive awards to any person or firm on retained contracts.
5. Consideration shall be given to contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.
6. Organizational conflicts of interest. An organizational conflict of interest occurs when because of other activities, relationships, or contracts a contractor is unable or potentially unable to render impartial assistance or advice to Community Transit; a contractor's objectivity in performing the contract work might be otherwise impaired; or a contractor has an unfair competitive advantage.
7. The specification of only a "brand name" product without listing its salient characteristics and not allowing an equal product to be offered.
8. Contract modifications or change order actions outside the original contract scope.
9. Any arbitrary action in the procurement process.



## Section 1. The Procurement Organization

### 1.1. Procurement Division Organization Chart

The Procurement Division reports to the Director of Administration in the Administration Department. The division consists of the Parts Section and the Procurement Section. The following chart provides an overview:



Note: Vacancies and other issues may affect the org chart.

## Section 2. General Functions

### 2.1. Cradle to Grave Implementation

Procurement activities commence with development of project plans or annual procurement plans, and end at project closeout. Community Transit will use this manual as its guiding procurement document.

### 2.2. Vendor Questions

Procurement is often the first point of contact for vendors. Typical inquiries relate to doing business with us or more specific procurement related issues. Inquiries regarding missing or unclear information on contracts that were sent to vendors and cannot be resolved by Procurement staff may be referred to the requester.

Questions regarding payment of invoices may be referred to Accounts Payable.

### 2.3. Public Information Requests

All requests for public information received in writing must be immediately submitted to the Public Disclosure Officer or the requestor should be directed to seek information using our online form. Procurement staff will work with the Public Disclosure Officer to provide the requested information in a timely manner.

## **2.4. Requests for File Review or Copies of Documents from Procurement Files**

### **2.4.1. Internal Customers (Community Transit Employees)**

Employees requesting files for review may do so in the Procurement office or another secure area with Procurement staff present. Original files are not to be removed from the Procurement office. Copies of documents from procurement files can be provided on a need to know basis. Electronic files may be shared over the agency network.

### **2.4.2. External Customers (Non-Community Transit Employees)**

All requests made by external customers to review files or obtain copies must be requested through a Public Disclosure Request before any files will be made available for review or copies provided. Exceptions may be made for requests from other government agencies.

Visitors requesting files for review may do so in the Procurement office or another secure area with Procurement staff present. Files are not to be removed from the premises.

Before releasing any files for review, Procurement staff will ensure that proprietary and/or confidential portions are removed. Staff may consult with Legal counsel if needed. No original files should be removed from the Procurement office, except for archiving.

## **2.5. Customer Communications**

### **2.5.1. Sending Messages Agency-Wide**

Information and requests needing agency-wide distribution by voice or electronic mail are to be reviewed and approved by the Procurement and Contracts Manager. The Procurement and Contracts Manager will determine whether further approval is needed.

## **2.6. Records Retention**

Each contract file shall remain in the custody of the Procurement office during the life of the contract. Thereafter, contract files will be kept in the archives in accordance with Community Transit's record retention policy and procedures.

Procurement staff will work with Public Disclosure Officer and the Records Officer to ensure proper retention of records.

## **2.7. User Department Supply Orders – Non-Stock**

### **2.7.1. Business Card Orders**

Orders are prepared by the Procurement Division using its business card supplier. All business cards are paid from the Procurement Division budget.

## 2.7.2. Copier Toner

Refer to copier contracts, service manuals or check with the Help Desk. Copier toner and developer are typically supplied by the copier vendor at no additional cost under the maintenance contracts or procured under competitive procurement procedures.

## 2.7.3. Printer, Fax & Other Ink/Toner

These supplies are paid from the Procurement Division budget. Users should provide vendor order/part number when requesting such supplies by emailing to [toner@commtrans.org](mailto:toner@commtrans.org). When a request is received, Procurement Support Specialist or designee will order using the Contract Purchase Order prepared for this purpose. The Procurement Support Specialist checks deliveries against orders placed, returns spent cartridges to contractor for recycle purposes, checks invoice against order, verifies rates, and submits invoice to Accounts Payable for payment.

## 2.7.4. Office Supplies

Commonly used office supplies are generally paid from the Procurement Division budget, when ordered with its contracted supplier. Items not covered by Procurement are: items procured from non-contracted office supplies vendors or items costing over pre-defined value or items needed for specific needs of the department or items needed for uses other than “office” must be paid by individual departments from their own budget. Please see [Exhibit F](#) – Community Transit Office Supplies Procurement methods and controls for details.

Office supply orders are placed by requesting departments online with the current office supply vendor or as directed by Procurement staff. Office supply orders are subject to approval by Procurement staff. Regular office supplies are budgeted under Procurement. Procurement staff reviews each order for accuracy and determines whether the items ordered are regular office supplies, to be paid for by Procurement, or whether they are special orders, specifically required by the requesting department.

If the orders are determined to be special orders, the requesting department must pay for those supplies from their individual budgets. Procurement staff reviews the Procurement Division’s invoices for accuracy and processes them for payment.

## 2.7.5. Copy Paper Orders

Copy paper orders are placed by requesters online with the copy paper supply vendor or as directed by Procurement staff. Copy paper orders are subject to approval by the Procurement Division. Copy paper is budgeted under Procurement. The Procurement Support Specialist reviews each order for accuracy and determines whether the items ordered are regular copy paper orders, to be paid for by Procurement, or whether they are special orders, specifically required by the requesting department.

If the orders are determined to be special orders, the requesting department must pay for the paper order from their individual budgets. The Procurement Support Specialist reviews the Procurement Division’s invoices for accuracy and processes them for payment.

## 2.8. Corporate Letterhead, Envelopes, and Shipping Labels

Procurement Support Specialist purchases and keeps a reasonable supply of printed letterhead, envelopes and shipping labels for everyday usage. However, the Procurement Support Specialist should be given enough advance notice whenever a large mailing is anticipated to ensure there is sufficient stock on hand.

## 2.9. Credit Related Issues

### 2.9.1. Vendor Credit Applications

Community Transit generally does not complete Vendor Credit Applications. A credit information letter is [available online](#), annually updated, and signed by the Procurement and Contracts Manager. This letter should be submitted to the vendor in lieu of a credit application.

Should a vendor refuse to accept the credit information letter, the Vendor Credit Application will be forwarded to Community Transit's Controller for review and completion.

### 2.9.2. Credit Cards (Purchasing Cards or 'P-Cards')

See Community Transit's Credit Card Policy and Procedures, administered by Finance department.

## Section 3. [Ethics](#)

### 3.1. Ethics, Gratuities, Etc.

#### 3.1.1. Offers of Gratuities

As stated in Community Transit's Personnel Policy Manual (refer to the Personnel Policy Manual):

*"No officer or employee of Community Transit shall accept any gratuity, gift, favor or any other item of substantial economic value from any person, firm, or organization providing services or seeking to provide services, materials, equipment or property to Community Transit.*

*Any public official or employee of Community Transit who willfully or negligently violates this policy may be subject to disciplinary action, including termination. Further, public officials and employees of Community Transit may be subject to civil penalties as prescribed and set forth in the Revised Code of Washington and by any other governmental laws and regulations providing penalties and sanctions for actions that may be deemed inappropriate and in conflict with the discharge of the individual's official duties and responsibilities."*

#### 3.1.2. Travel/Meals Paid by Vendor

Travel costs shall be paid by vendor only if a contract specifically states that such visits shall be at the expense of the vendor. All other travel costs will be paid by Community Transit. Such visits must be fully documented and retained with the relevant solicitation file.

Any pre-award travel by Community Transit staff must be paid by Community Transit.

Good judgment must be exercised regarding vendor-supplied meals. In general, avoid situations where the vendor will feel obligated to purchase a meal. Additional guidance is included in [Exhibit G - Policy Clarification – Social Interaction with Vendors](#).

### 3.1.3. Promotional Items

Vendor promotional products of negligible value, in the form of note pads, pens, calendars, etc., may be accepted and used for in Community Transit business operations but may not benefit any specific employee.

## 3.2. Conflicts of Interest and Personal Gain or Benefit

Procurement personnel have a responsibility to act in the best interest of Community Transit. Employees are prohibited from using their positions for personal benefit or gain. Sometimes an employee may have a personal or financial stake in the outcome of a decision, as well as influence over that decision. In this type of situation, a potential conflict of interest exists. This includes any arrangement or circumstance, including a family or other close personal relationship, that might cause the employee to act other than in the best interest of Community Transit, or that creates the appearance of such a conflict. Employee shall notify their supervisor immediately when such circumstance, arrangement or conflict exists. If there is a question, consult with the Procurement and Contracts Manager. (Refer to the Personnel Policy Manual)

### 3.2.1. Conflict of Interest Statement

No employee, officer or agent of Community Transit shall participate in selection or in the award or administration of a contract if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when persons identified in A.–D. have financial or other interest in the firm selected for award:

- a) The employee, officer or agent; or
- b) Any member of the employee's immediate family; or
- c) His or her partner; or,
- d) An organization that employs or is about to employ the person(s) identified in A. – C.

Community Transit's officers, employees or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors or parties of sub-agreements.

## 3.3. Organizational Conflict of Interest (Vendor related)

Engaging in practices that result in organizational conflicts of interest is prohibited. An organizational conflict of interest occurs when any of the following circumstances arise:

1. **Lack of Impartiality or Impaired Objectivity.** When a vendor is unable, or potentially unable, to provide impartial and objective contractual assistance or support to Community Transit due to other activities, relationships, contracts, or circumstances.

2. **Unequal Access to Information.** When a vendor has an unfair and non-competitive advantage through obtaining access to nonpublic information.
3. **Biased Ground Rules.** During the performance of a contract, a vendor has established the ground rules for a future procurement by developing specifications, evaluation factors, or similar documents.

### 3.3.1. Remedies

Procurement staff and the Project Manager will analyze each planned acquisition in order to identify and evaluate potential conflict of interest including organizational conflict of interest as early in the acquisition process as possible, and avoid, neutralize, or mitigate potential conflicts before contract award. A limitation on future contracting clause will be considered for inclusion in solicitations and contracts whenever the vendor will be providing advice to Community Transit that will require follow-on contracts. Such a clause, precluding the vendor from bidding on follow-on work, will remove any bias from the vendor's recommendation.

### 3.3.2. Outside Business Interests

Employees may choose to become involved in business interests outside Community Transit. For situations that may have potential conflicts of interest, Procurement staff or other affected agency personnel should discuss it with the Procurement and Contracts Manager. (Refer to the Personnel Policy Manual)

### 3.4. Compliance with Community Transit's Code of Conduct

Procurement personnel who violate Community Transit's Code of Conduct put themselves and the agency at the risk of facing serious legal consequences, including criminal penalties. Code of Conduct violations will result in disciplinary action, up to and including termination.

This Code of Conduct cannot anticipate every contingency. Employees are encouraged to seek the advice of the Procurement and Contracts Manager if they are in doubt about any situation, or potential decision or action. (Refer to the Personnel Policy Manual)

### 3.5. Conflicts of Interest – Current and Former Employees

In compliance with RCW 42.52.080 Employment after Public Service, the following paragraph should be inserted in contracts where potential for such conflict of interest exists, so that vendors are also aware of this conflict of interest.

*"Community Transit seeks to eliminate and avoid actual or perceived conflicts of interest and unethical conduct by current and former Community Transit employees in transactions with Community Transit. Consistent with this policy, no current or former Community Transit employee may contract with, influence, advocate, advise, or consult with a third party about a Community Transit transaction, or assist with the preparation of Bids or Requests for Proposals submitted to Community Transit while employed by Community Transit or within one (1) year after leaving Community Transit's employment, if he/she was substantially involved in*

*determining the work to be done or process to be followed while a Community Transit employee.”*

### 3.6. Unauthorized Purchases

Except as provided herein, no Community Transit employee shall purchase or contract for any supplies, material, equipment or contractual service or make any contract within the purview of this manual other than through the Procurement Division and its staff.

#### 3.6.1. Personal Responsibility for Unauthorized Purchases

Any Community Transit employee making a purchase or entering into a contract contrary to the provisions of this manual or accepting for delivery to Community Transit any items purchased contrary to the provisions of this manual may be personally responsible for payment of same purchase. To the extent that Community Transit may be required to pay for same, Community Transit may be entitled to recover the full amount of such payment from such employee.

#### 3.6.2. Reporting Unlawful Purchases

It shall be the duty of the Director of Administration to report any suspected collusive bids/proposals or practices to the proper authorities charged with enforcement of any laws, including antitrust laws.

## Section 4. [Purchase Requests](#)

### 4.1. Preparation of Purchase Requisitions (REQs) By Procurement

When a purchase is required within the Procurement Division, the Procurement Support Specialist creates the REQ in PeopleSoft. REQs shall be routed for approvals per delegated authority (See [Exhibit A – Delegating Purchase and Other Authority](#) (or as revised)).

Once the REQ has been duly approved, the Procurement Support Specialist creates the Purchase Order in PeopleSoft.

Once the goods or services have been received, the Procurement Support Specialist enters the receipt online into PeopleSoft (where applicable), reviews the invoice for accuracy and submits the original invoice to Accounts Payable for payment processing.

### 4.2. Requisitions Prepared By Other Departments

Only agency staff members who have received appropriate training in the preparation of a REQ in PeopleSoft are authorized to prepare REQs.

REQs initiated by user departments are routed through established approval paths (see [Exhibit A – Delegating Purchase and Other Authority](#) (or as revised))), and directed to Procurement staff for review and for PO processing. Once a REQ has been approved and has reached the Procurement Division, it is reviewed by Procurement staff for eligibility, compliance and completeness. Procurement staff shall review the REQs for:

1. Accuracy and completeness of data (vendor, quantity, unit of measure, price etc.)
2. Clear and concise specifications
3. Adherence to contract requirements (Quote detail or contract information may be needed depending upon dollar level)
4. If applicable, Sole Source Justification form completed, signed and attached

Reviewed and approved REQs are routed to the Procurement Support Specialist to be converted into POs. While this is a primary duty of the Procurement Support Specialist, other Procurement staff may also create POs. REQs must be processed expeditiously unless they are being held for further research and clarifications.

Each REQ is then processed according to the established procurement procedure for the goods or services required. A copy of the PO is sent to the requestor. If requested or at the direction of Procurement staff, a copy of the PO is sent to the vendor.

If the REQ is determined to be deficient in some way, Procurement staff will contact the department representative for clarification.

If a user does not have access to PeopleSoft and there is no available backup, Procurement staff will prepare the REQ in PeopleSoft on their behalf.

## Section 5. [Vendor Information](#)

### 5.1. **Suggested Vendors for Procurement action**

Vendor lists and information can be obtained from the following sources:

1. Procurement's Registered Vendor website
2. Previous purchasing history (see contract files)
3. Published supplier directories
4. Trade journals
5. Internet
6. Potential vendors can also be suggested by the requesting department, other members of the procurement team or from contacts with other agencies.

Additionally, Procurement staff may solicit from the local vendor base and beyond by:

1. Posting the solicitation on Community Transit's website under the Procurement website.
2. Advertising in a local business journal or newspaper.
3. Public Notice (posting of a notice or announcement).



4. Posting on other electronic vendor databases (i.e. Washington State Department of Enterprise Services (DES) Website).

## 5.2. Request for Information (RFI)

Procurement staff may issue a short description of the goods or services needed to test the market and to receive feedback from interested vendors. No obligation to purchase shall result from a Request for Information. (See [Section 44](#)).

## Section 6. [Procurement Thresholds](#)

Procurement thresholds are established to develop a business model that takes into account contract risk, level of effort organizational delegation of authority etc.

### 6.1. Procurement Thresholds, not including tax (in case of doubt, use the next threshold)

Table 1. Procurement Thresholds & Processes

THRESHOLD	METHOD	PURCHASER	PROCUREMENT METHODS	PURCHASE APPROVAL AUTHORITY Per POL-FN-3000
<=\$5,000	Delegated Micro Purchase – Level 1	End-user	1. No competition required. 2. No IGCE required. * 3. Contact Procurement for Public Works & A&E. 4. See <a href="#">Section 7.1.1</a>	1. \$5,000 – Certain employees 2. \$20,000 – Certain Managers, Procurement Supervisors and Specialists
>\$5,000 – <=\$10,000	Delegated Micro Purchase – Level 2	End-User	1. Three written quotes or if less than three quotes contact Procurement staff. 2. No IGCE required. * 3. Contact Procurement for Public Works & A&E. 4. See <a href="#">Section 7.1.2</a>	1. \$20,000 – Certain Managers, Procurement Supervisors and Specialists
>\$10,000 – <=\$250,000	Simplified Acquisition Threshold/ Small Purchase Solicitation	Procurement Division	1. Reasonable competition from a minimum of three Vendors (RFQ/Simplified RFP). 2. No IGCE required. * 3. Contact Procurement for Public Works & A&E. 4. See <a href="#">Section 8</a>	1. \$100,000 – Directors 2. \$150,000 – CEO/ COO/ Dy CEO 3. Over \$150,000/year or single project, at the time of award - BOD
>\$250,000	Formal Procurement	Procurement Division	1. Full and Open Competition. 2. Competitive sealed bids (ITB) or Request for Proposals	1. Over \$150,000/year or single project, at the time of award - BOD

			(RFP) or Request for Qualifications (RFQ) 3. IGCE required. 4. See <a href="#">Section 9 - ITB</a> , <a href="#">Section 10</a> – RFP/Q and <a href="#">Section 11 - RFQ</a> .	
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\*IGCE required for all A&E and Public Works

### 6.2. Procurement Threshold

To determine the threshold of a procurement, reader should consider the total of requisitions or purchase orders that are for similar commodities processed within the same general time period. A requisition or combination of requisitions resulting in more than one purchase order for similar goods or services shall follow the quotation guidelines of this section. The intent is to avoid even the appearance of impropriety (e.g., bid splitting) while still employing practical procurement methods.

For all Public Works, A&E, Emergency purchases and federally funded projects, Procurement and Contracts Manager or Supervisor involvement is required at all thresholds.

### 6.3. Duplicative or Unnecessary Purchases

Procurement staff will conduct regular reviews of procurement actions to identify duplicative or unnecessary purchases. Small and micro purchases will be reviewed to determine if and how purchases can be consolidated to obtain purchases that are more economical for Community Transit. These reviews will include Purchase-card (P-card) and Division Purchase Orders.

The requisition approval process ensures review by user department supervisory and managerial staff for duplicative and unnecessary purchases.

### 6.4. Consolidation or Unbundling of Purchases

Procurement staff will review each requisition from the perspective of either consolidating or breaking out procurements to obtain a more advantageous outcome for Community Transit. The ability to provide more contracting opportunities to small businesses shall be a part of this consideration. For this purpose, staff will review the scope to determine if a procurement would be more beneficial if it were to be broken out into two or more separate unbundled contracts.

## Section 7. [Delegated Purchases](#)

Certain Community Transit employees have been delegated authority to purchase goods and/or services up to stated delegated purchasing threshold, following established purchasing procedures, **except** for any Public Works, Architect & Engineering, and Federally Funded purchases.

When requested by a department, Procurement staff will assist the department with delegated purchases.

## 7.1. Types of Delegated Purchase

### 7.1.1. Micro-Purchases – Level 1 - (refer to Table 1 Procurement Thresholds & Processes)

1. For micro-purchases using federal funds, departments must contact Procurement for guidance with compliance. The FTA requires that at a minimum we document a determination that the quoted price is fair and reasonable.
2. An Independent Government Cost Estimate (IGCE) is not required for micro-purchases, except for A&E and Public Works.
3. Based on source of funds, Davis-Bacon or State of WA prevailing wage requirements will apply to public works contracts, even if the recipient uses micro-purchase procurement procedures.
4. Micro-purchases Level 1 may be made without obtaining competitive quotations.
5. Micro-purchases should be equitably distributed among qualified suppliers in the local area and purchases should not be split to avoid the requirements for competition above the micro-purchase threshold.
6. For low-dollar purchases the P-Card should be used. This procedure enables departments to procure micro-purchases in a cost- and time-effective manner. Refer to Community Transit's P-Card Policy for further instructions.

### 7.1.2. Micro-Purchases – Level 2 - (refer to Table 1 Procurement Thresholds & Processes)

For Micro-Purchases between the micro-purchase threshold and the simplified acquisition threshold, three written quotes are typically required. If less than three vendors respond with written quotes, additional vendors must be contacted. If after making additional efforts, an End User is unable to obtain three quotes, the purchase action can be executed with the approval of Procurement staff, if the price is determined to be reasonable. An Independent Government Cost Estimate is not required for Micro-Purchases (except for A&E and Public Works).

For all purchases using federal or other grant funds, departments must contact Procurement for guidance with compliance.

## Section 8. [Simplified Acquisition Threshold or Small Purchases](#)

Simplified acquisition threshold means the dollar amount below which Community Transit may purchase property or services using Simplified Acquisition Procedures or Small Purchase methods. These procedures provide us with ability to purchase with reduced administrative costs; promote efficiency and economy in contracting; and avoid unnecessary burden for Community Transit and its vendors.

Note: Per Resolution 01-17 ([Exhibit E – Community Transit Board Resolution No. 01-17](#)), if a contract amount exceeds \$150,000 in any year of a multi-year contract or in total for a single project, at the time of award, such an award must be approved by the Board of Directors. In the event these procurements include federal funds, the value of the contract will be based on base

and option quantities and appropriate federal terms and conditions must also be included and applicable federal requirements must be followed.

### 8.1. Small Purchase (Request for Quotes or Simplified Request for Proposals)

1. Depending on the risk assessment of a procurement, Procurement staff will establish the level of detail and process stringency that will apply to a procurement within the Simplified Acquisition Threshold. Extremely low risk procurements, falling within the Simplified Acquisition Threshold may be processed as a simple Request for Quote with a fixed price, a simplified RFP or a formal ITB/RFP may be issued to adequately mitigate risks. The Small Purchase solicitation must clearly identify that the award will be made per Simplified Acquisition Procedure.
2. In a Simplified Acquisition Threshold procurement, Procurement staff will obtain reasonable competition from a minimum of three Vendors. Staff prepares a bidders list using the sources found in [Section 5- Vendor Information](#). It is not required to contact every vendor on the Bidder's List for Small Purchases.
3. The End User is responsible for providing adequate specifications and other details for the item or service required.
4. An Independent Government Cost Estimate (IGCE) is not required except for A&E and Public Works.
5. With End User input, Procurement staff prepares the small purchase solicitation (RFQ/ Simplified RFP).
6. This procurement method enables us to have shorter procurement timelines. Allow one week, or sufficient time, for vendors to submit responses. The complexity and nature of the goods or service often dictates the response time.
7. While only reasonable competition is required, Requests for Quote or Simplified RFP will be posted on Community Transit's website to obtain offers and to further competition.
8. Depending on the nature of purchase and other conditions, quotations may be opened and reviewed as they are received as there is no public opening of offers.
9. Evaluation of offers is accomplished using the criteria stated in the solicitation.
10. After a determination of the lowest, responsive and responsible bidder or a best value offer, contract award can be finalized. The Project Manager, Procurement staff or an evaluation committee may conduct evaluations for determining the responsible bidder or best value offeror.
11. Procurement history, selection, and award shall be documented in form of a memorandum to file or on the Procurement History & Checklist form.
12. The user department will submit a requisition for the purchase and a Purchase Order is issued to the vendor. A contract document may be prepared, or a Purchase Order can be used as the contract document.

13. All quotations and related documentation, including the procurement history, are filed with the resulting contract document (purchase order or contract).
14. Award will be posted on Community Transit's website.

Primary process variations between Simplified Acquisitions (Small Purchase) and Formal procurements are:

1. Small Purchase does not require full and open competition - only reasonable competition is acceptable (competition from a minimum of three vendors is required). Formal procurements require full and open competition.
2. The Small Purchase process does not require the establishment of an Independent Government Cost Estimate (IGCE), except for A&E and Public Works. All Formal procurements must include an IGCE. However, it is mandatory to establish fair and reasonableness of price for all purchases.
3. Responses to Requests for Quotes, under the Small Purchase thresholds, will have a deadline but offers may be opened as they are received. In Formal procurements, offers must have a deadline and opened after the deadline. ITB's are opened at the same time publically. RFP's are opened privately.
4. In small purchases, quotations may be negotiated irrespective of whether an RFQ or RFP was used. This flexibility is available as a small purchase is not a binding contract till the vendor agrees to perform, unlike in formal procurements where an offer once accepted (by PO or Contract) is binding on the vendor.
5. Small purchases will typically have a Purchase Order as a contract and Formal Procurements will typically have a written bilateral contract approved as to form. If a PO is issued, a binding contract is only established if the vendor provides written acceptance or performs. In formal procurement, a PO is a binding contract as the rule of offer and acceptance forming the contract is fulfilled.
6. Post Award, with approval of Procurement and Contracts Manager/DBELO a Small Purchase order can be modified to add FTA provisions that apply, if the threshold is exceeded by a change order. In formal procurement, contracts cannot be modified to add FTA provisions.
7. The FTA Small Purchase process is not required to comply with Federal Acquisition Regulations (re: award of Small Purchases to Small Business etc.) requirements.

## 8.2. Tie Bids

If more than one quote is received with the same price and all other requirements are being met, Procurement staff will conduct a coin flip or use another random selection process with a

witness to determine the winning bid. Procurement staff will document the determination to award the contract.

### 8.3. Single Bid

In the event that only one bid is received, Procurement staff will review the procurement to establish reasons for the single offer, and if necessary re-procure to obtain additional competition. If it is determined that only a single offer is feasible at the time, staff will conduct and document a price reasonableness determination of the offer by conducting a cost or price analysis. For federally funded procurement, a sole source action may be required, if no other firms are potentially able to submit an offer.

## Section 9. [Invitation to Bid \(ITB\) – Formal Procurement](#)

An Invitation to Bid (ITB) shall be used for procurement of goods, service or combination thereof that totals the formal procurement threshold or more annually. ITB's can be used at lower thresholds depending on contract risks and those maybe processed under the Simplified Acquisition Threshold or as a Formal Procurement. In the event these procurements include federal funds, the value of the contract will be based on base and option quantities and appropriate federal terms and conditions must also be included and applicable federal requirements must be followed.

### 9.1. Definition

The Invitation to Bid (ITB) is the solicitation document that officially requests and invites potential bidders to submit bids for goods and/or services required by Community Transit. An ITB is used for competitive sealed bidding when:

1. A complete, adequate, and realistic specification or purchase description is available.
2. Two or more responsible bidders are willing and able to compete effectively for the business.
3. The procurement lends itself to a fixed price contract and the selection of the successful bidder can be made principally based on price.
4. No discussion with bidders is needed, or
5. If required by law (e.g. construction).

A typical award for ITB will be made in favor of a vendor whose offer is responsive to the bid submission requirements of the ITB; the vendor is considered capable of delivering the goods/services and hence responsible; and whose offer is lowest priced. If specified in the award criteria of the ITB, contract awards may be made to more than one vendor.

A simple ITB is when items are purchased on a one-time basis for a firm fixed price and a Purchase Order is issued in favor of a firm that is responsive, responsible and submits the lowest priced offer. Another type of ITB is for goods or services where the bidder submits fixed unit

prices, to be purchased as needed over a defined period of time but where the exact quantity may not be known, resulting in a Blanket Purchase Order (BPO).

Both the purchase order and blanket purchase order are considered legal agreements, or contracts, for the purchase of the good(s) or service(s) identified in the ITB.

## 9.2. Number Assignment

Procurement staff assigns a unique number that will serve as the official designation for the solicitation.

## 9.3. Official Bid/Contract File

Procurement is responsible for creating and maintaining official solicitation/contract files. The file label shall identify the bid number and bid name.

## 9.4. General Information

Sets of General Terms and Conditions have been prepared for various types of solicitations. These sets, referred to as boilerplates, have been reviewed by legal counsel and are to be utilized when preparing specification packets.

Procurement staff will review the electronic procurement boilerplate file and select the type of solicitation required. Staff will also verify with the user department and Grants division whether grant money is being used where specific grant requirements must be followed.

Once the solicitation packet is officially made available to potential bidders, the bid is considered “open for bids” and often referred to as simply “open” or “on the street”. The bid remains open until the date and time indicated in the solicitation, unless an addendum has been issued changing this date and/or time. When that time has passed, the bid is then officially “closed”, and any bid submitted beyond that time will be considered a late bid. Immediately after the bid has closed, a public “opening” of the bids received will be held at the location (can be virtual) identified in the bid document.

## 9.5. Overview of Steps

1. The requesting department and Procurement will discuss the upcoming procurement and develop a procurement strategy, timeline and identify any significant risks.
2. Procurement staff will select a definite date and hour up to which bids will be accepted.
3. Procurement staff may prepare a legal notice for advertisement in the local newspaper of record, per [Section 27](#) Legal Notice and Advertising. The solicitation may also be advertised in specific trade publications.
4. Procurement staff receives the specifications or scope of work from the user departments. These specifications will be reviewed and Procurement staff will work with the user department to finalize the specifications. Procurement staff prepares the solicitation packet starting with the appropriate version of the boilerplate. The Procurement and Contracts



Manager/Supervisor will approve the solicitation. A printed copy of the solicitation, along with any attachments, must be added to the bid file.

5. An Independent Government Cost Estimate (IGCE) is required if the procurement is being processed as a Formal Procurement.
6. Procurement staff will review the list of potential bidders from the procurement registered vendor system by commodity code and include any potential bidders provided by the user departments or other sources (See also [Section 5](#) Vendor Information).
7. In the event a pre-bid conference is needed, Procurement staff will schedule and facilitate that event.
8. Prior to the bid opening, the Procurement staff will prepare a bid opening form for recording the bids received and sign-in sheet (hardcopy or electronic for virtual bid opening).
9. If the bid contains multiple items or factors in consideration for award, Procurement staff will prepare a tabulation of bids received. Only the total dollar amount of the bids received will be read during the Bid opening unless the bid documents specifically address special awards, i.e., Base Bid plus Options. Then bids will be read as indicated in the bid document.
10. Options must be evaluated at the time of original award, for them to be available to the agency for purchase immediately or at a later date. Exercise of options at a later date may not be made unless it is determined that the option price is better than prices available in the market, and the exercise of option is more advantageous than re-procurement.
11. Procurement will notify the user department(s) of the bid results. A form contract will be issued unless the issuance of a Purchase Order would be sufficient. Contract awards in excess of the CEO's designated authority will be made by Community Transit's Board of Directors and in compliance with operating parameters.

### 9.6. Additional Requirements

Bids may have additional requirements depending on the specific nature of the product or service required, and defined, by the bid document. The additional/optional requirements may include, but not necessarily be limited to, the following:

#### 1. Insurance Requirements:

The insurance requirements supplied in the boilerplates are standard and should be reviewed for applicability to the specific procurement.

#### 2. Separate Contract:

Once awarded, the bid documents, including all terms and conditions therein, and the selected offer serves as the contract and Community Transit's approved 'as to form' contract document will issued to the awarded vendor.



### 9.7. Creating a List of Potential Bidders

1. Procurement staff will review the list of potential bidders from the procurement system to ensure that a reasonable number of vendors will be notified.
2. If the procurement vendor registration system does not provide a reasonable number of prospective bidders, other sources may be utilized per [Section 5](#). A reasonable number shall be defined as a minimum of three unless market conditions exist which limit the number of actual prospective bidders. If such conditions exist, the situation is to be documented in the bid file.
3. Any potential bidder who requests a copy of the bid document shall be given the opportunity to access the full bid package, including any addenda that have been issued.
4. To maximize exposure to a large vendor base, Community Transit will publish its solicitations on Community Transit's website.

### 9.8. Posting the Bid

After final review of the bid packet has been completed and approved by Procurement and Contracts Manager or Procurement Supervisor, the bid packet is ready to be posted for download by prospective bidders.

The Procurement Division's website will show all open Bids for Community Transit.

### 9.9. Information Non-Disclosed During the Solicitation Process

1. Generally, the requesting department's estimate of cost and the amount of funds allocated for the purchase are not to be disclosed. There are situations, however, when it is advisable to provide this information to bidders, such as a construction project.
2. No information may be supplied to only one or a few bidders. **All bidders must receive the same information.**
3. In general, Procurement staff and/or staff from other departments are prohibited from divulging advance information about the procurement because a non-competitive advantage could result in a prospective bidder receiving information prior to the time it is released to the public.
4. It may be necessary to provide certain information not included in the original bid specification packet. In such cases, all potential bidders/plan holders must be provided the information, preferably by the issuance of an addendum.

### 9.10. Location of Bid Opening

A conference room, or other public meeting place (including virtual platform), specified in the ITB must be reserved for the opening of the bids to ensure availability at the appropriate time.

### 9.11. Amending the Bid

The document that amends the bid is called an Addendum.

1. Bid addenda may be issued prior to the bid closing time and date under the following circumstances:
  - a) Administrative changes.
  - b) Technical changes, correction and/or clarification.
  - c) Modification of the terms and conditions.
  - d) Changes to Forms (including Price Form).
  - e) Cancellation of the bid.
  - f) Change of bid due date or time.
  - g) Other unforeseeable changes.
2. If an addendum is required, immediate steps to be taken to inform prospective bidders are as follows:
3. Addendum notifications should follow the process listed in your solicitation. Procurement staff may choose to also send a notification to all vendors from Community Transit's website. The addendum will be posted to Community Transit's website.
4. Give information orally to all prospective bidders ONLY if urgency warrants advance notice of intent to issue addendum and identical information is supplied to all prospective bidders. Care should be taken to notify all prospective bidders within a short time frame.
5. The issuance of an addendum may require revisions to the bid opening date and time. Care should be taken to provide ample time to vendors for them to prepare and submit bids.

### 9.12. Receipt and Safeguarding of Formal Bids

In order to assure that all bids that are received in a timely manner are available for the bid opening, the Receptionist, if hand-delivered, or Procurement staff, if delivered through other means, shall promptly and immediately date and time-stamp (manually or electronically) the envelope and keep in a secure area.

1. When it is impossible to determine the presence and/or identity of a bid inside a sealed envelope, staff will open the envelope for identification purposes only. Immediately note the bid name, number and closing date on the outside of the envelope, write-in that it was an unmarked bid and that it was opened for identification purposes, then initial the note and reseal the bid with tape. Keep bid in a secure area. Use caution with this procedure to protect the integrity of the sealed bid process.
2. When formal bids are received into the department by other than USPS Mail (hand delivered, courier, express mail, etc.):

- a) The bid must be signed for as required by the courier or express mail carrier.
  - b) The bid must be in a sealed envelope identified with the bid number, title and closing time and date of bid. If the bid is hand delivered by the bidder without this information, ask the person to put the information on the bid.
3. Bids received after the time and date specified in the solicitation document shall be handled in the following manner:
- a) If the bid is hand delivered by the bidder:

*A bid received after the bid opening time and date shall be time-stamped to establish late delivery, photocopy envelope for file, and subsequently returned unopened to the sender with a notation on the package "Returned to sender – Package received after bid opening time and date". Such bids will not be entered in the bid tabulation sheet. If a photocopy of the late bid is not possible, a memo to file should document the event.*

- b) If the bid has been delivered by mail or by paid courier, promptly time and date stamp the envelope. Then, photocopy the envelope and return the sealed bid or proposal by mail unopened with a rejection letter. The photocopy of the sealed envelope and the rejection letter shall be retained in the bid file.
- c) It is not necessary to return late "no bid" responses. This type of late bid should be retained in the bid file.

### 9.13. Bid Opening

1. A public bid opening and reading of bid amounts is conducted for Invitations to Bid, if processed as a Formal Procurement. At the scheduled opening time Procurement staff shall gather all responses scheduled to be opened. The location of bid opening can be on a virtual platform (must be stated in the solicitation document).
2. Procurement staff will announce the closing date, time and ITB title and number, and declare the bid to be closed. In electronic bidding, such events could be integral to the bidding process (bids are not accepted after bid close time), hence an announcement is not needed.
3. Each sealed bid shall be read aloud individually by Procurement staff and record the bid response information on the bid-opening sheet as the information is read. In electronic bidding, immediate posting of preliminary bid results on the web page shall suffice.
4. A bid-opening tabulation sheet shall be filed in the bid file/contract binder.
5. All Bid results will be posted on Community Transit's website.
6. When the information contained in the bid form is extremely lengthy, the following information may be recorded in lieu of the individual prices:
  - Name(s) of responding bidder(s).

- Note whether the response is a “bid” or “no-bid”.
7. The bid evaluation information, including individual pricing, shall be entered in spreadsheet format. Bid tabulation spreadsheets may be proofed for accuracy by another staff member.
  8. At least one original of all responses shall be filed in the bid file in accordance with the Procurement History checklist. The time stamped envelopes may be disposed after the end of protest period.
  9. Non-responsive bids (no signature or other defects, etc.) must be examined for “minor informality”. Procurement staff should consult with their supervisor before declaring a bid non-responsive. The Procurement and Contract Manager may seek legal advice before declaring a bid non-responsive.  
Non-responsive bids must be retained in the bid file. The nature of the defect and the reason for declaring a bid non-responsive are identified by Procurement staff in a memorandum to file. Procurement staff may also send a letter to the vendor explaining the decision to declare their bid non-responsive.

#### 9.14. Evaluation of Bid and Consideration for Award

1. Bids shall be evaluated for responsiveness to both the basic and additional requirements set forth in the Invitation to Bid. Responsiveness may involve completing and returning the bid form, including signature by a binding agent for the bidder in a timely manner, providing any bonding required and acknowledging receipt of addenda.
2. To determine if the bidder is responsible, a wide range of factors necessary for contract performance, may be included. Those factors may include, but are not limited to, personnel or corporation certifications, insurance, inspection, testing, quality level, workmanship, delivery, and suitability.
3. The Invitation to Bid shall set forth all responsibility evaluation criteria to be used, including those required by State and Federal regulations and guidance. No criteria may be used during bid evaluation that were not set forth the in the ITB.
4. Award of contract shall be made to the bidder whose offer is responsive, the firm has met responsibility criteria and has submitted the lowest price offer. If low bidder is not awarded, procurement staff must document the justification for their decision, and obtain approval of the Procurement and Contracts Manager.
5. Verification of debarment status of the lowest and responsive bidder shall include checking and documenting exclusion status under:
  - i. The System for Award Management (SAM.gov), for federally funded contracts.
  - ii. Department of Labor and Industries debar list for any public works contract:  
<http://www.lni.wa.gov/TradesLicensing/PrevWage/AwardingAgencies/DebarredContractors/default.asp>

6. Procurement staff will contact the lowest, responsive bidder to obtain written clarification, if there are any clarification questions.
7. If more than one bid is received with the same price and all other requirements are being met, the Bid is considered a tie bid. Procurement staff in the presence of witness(es) (preferably the bidders representatives) shall flip a coin or use another random process to determine the winning bid. Procurement staff shall document the determination to the contract file.

### 9.15. **Correction or Withdrawal of Bids after Bid Opening**

In any request or decision involving a bid mistake, Procurement staff shall first consult with the Procurement and Contracts Manager to consider whether the mistake may be deemed as minor informality or irregularity, and provide the bidder an opportunity to cure any deficiency resulting from a minor informality or irregularity in a bid or waive the deficiency, whichever is to the advantage of the agency.

A minor informality or irregularity is one that is merely a matter of form and not of substance. It also pertains to some immaterial defect in a bid or variation of a bid from the exact requirements of the invitation that can be corrected or waived without being prejudicial to other bidders. The defect or variation is immaterial when the effect on price, quantity, quality, or delivery is negligible when contrasted with the total cost or scope of the supplies or services being acquired.

The Procurement and Contracts Manager may allow the bidder to withdraw a bid with an irrevocable error. Staff will advise bidder of the potential impact on future awards created by withdrawal.

### 9.16. **Reservation to Reject Bids**

The Procurement Division may reject any and all bids for the following reasons:

1. Failure of the bidder to provide bid surety or other data required by the bid solicitation documents.
2. Offer is incomplete, irregular, amplified, qualified or does not otherwise comply with requirements.
3. Community Transit reserves the right to reject any or all bids if it is in the best interest of the agency to do so.

### 9.17. **Award of Contract**

After determining the intent to award, the following steps shall be taken:

1. Contract award must be approved in accordance with the established contract signature levels. (See [Exhibit A – Delegating Purchase and Other Authority](#) (or as revised))

2. Prepare an Award Memo for the appropriate committee if the contract requires Board of Directors award. For all other awards, the contract file must reflect the justification – this documentation should match the nature and complexity of the contract.
3. Notify the bidder of award recommendation by issuance of an Intent to Award. Request any supplemental documents, (i.e. insurance, bonding) that are required before award is made.
4. Post Intent to Award on Community Transit’s website, so the public and unsuccessful bidders are informed. This posting also starts the protest procedure clock for apparent successful proposer/bidder. Timing for issuance of intent to award shall be:
  - a) If a contract award requires BOD approval:
    - i. Procurement staff drafts an award memo, for committee approval, once a potential contractor is identified.
    - ii. Committee meetings typically occur in the 3rd week of the month. BOD meetings occur on the 1st Thursday of the month. Therefore, usually there is a 2-week gap between Committee and BOD meetings.
    - iii. The preferred time for issuance of the Intent to Award shall be in a manner that the protest period has been exhausted before the Committee meeting. If due to time constraints the intent to award cannot be issued before the Committee meeting, the intent must be issued in a timeline that ensures the protest period has expired before the BOD agenda is established. Under no circumstances should an item be presented to the BOD before the protest period has expired. Once the Committee approves, staff issues an Intent to Award. Since the intent to award has a 5-business day timeline for protest, any protest will be received before the BOD meeting (in which case, the item will be removed from the BOD agenda).
    - iv. If for some reason the time gap between Committee and BOD meeting is less than 2-weeks or other conditions require early action, staff will issue the Notice of Intent to Award as soon as the directors have approved the Committee memo or provided specific permission.
  - b) If an item is below BOD threshold, staff will issue the Intent to Award notice and ensure that the 5-business day timeline for protest has passed before processing contract.
5. Prepare sound and complete contract documents, and secure signatures. For certain procurements (e.g. commodities with fixed prices) issuance of a Purchase Order may suffice.
6. Procurement staff will prepare a procurement history document for the contract file.
7. A timely Notice to Proceed should be issued, when such a notice is specified in the ITB.

### 9.18. Single Bid

In the event that only one bid is received, Procurement staff will review the procurement to establish reasons for the single offer, and if necessary re-procure to obtain additional competition. If it is determined that only a single offer is feasible at the time, Procurement staff will conduct a price or cost analysis of the offer, or otherwise determine reasonableness of the price.

### 9.19. Decision to Re-bid

A re-bid can be initiated, before or after bid opening, for the following reasons:

1. Inadequate or ambiguous specifications.
2. Specifications have been revised substantially.
3. Change in Community Transit's requirements.
4. All bids are deemed unreasonable or for other reason(s) unacceptable.
5. Bids were not independently arrived at or were not submitted in good faith.
6. A determination is made that all necessary requirements of the bid process have not been fulfilled.
7. Insufficient competition.
8. Any other reason deemed to be in the best interest of Community Transit.

When it has been determined by Procurement and/or the requesting department that a re-bid is necessary, Procurement staff will prepare and issue the new Invitation to Bid. All previously discussed policy must be followed.

### 9.20. Cancellation of Bids

Community Transit may cancel a solicitation for the following reasons:

1. Supplies or services are no longer needed.
2. Funding is insufficient for the supplies or services required.
3. For other reason(s) that indicate the cancellation or rejection of all bids is clearly in the best interest of the agency.

### 9.21. Protests and Appeals

All protests and appeals will be processed in accordance with Community Transit's Procurement Protest Procedures (See [Section 39](#) Protest and Appeal Procedures).

## Section 10. Request for Proposals/Requests for Qualifications – Formal Procurement

A Request for Proposals (RFP) shall be used for procurement of a goods, services or combination thereof that totals the formal threshold or more annually, and when consideration is necessary for factors other than price (i.e. technical equipment acquisitions, complex systems, consultant services, professional services). RFP's can be used at lower thresholds depending on contract risks and those maybe processed under the Simplified Acquisition Threshold or as a Formal Procurement. In the event these procurements include federal funds, the value of the contract will be based on base and option quantities and appropriate federal terms and conditions must also be included and applicable federal requirements must be followed.

### 10.1. **Competitive Sealed Proposal Using the RFP Approach**

#### 10.1.1. **Request for Proposals (RFP) – One- and Two- Step Methods**

A Request for Proposals (RFP) is used when any of the following conditions prevail:

1. The goods, service or combination thereof to be acquired are described in a performance or functional specification; or
2. It may be necessary to conduct oral or written discussions with proposers concerning technical and price aspects of their proposals; or
3. It may be necessary to afford proposers an opportunity to revise their proposals; or
4. It is necessary to compare the different price, quantity, and contractual factors of the proposals submitted; or
5. Price is not the determining factor upon which the contract will be awarded; or
6. Abstract methodologies are involved which defy quantifying into a price structures that are comparable between vendors.

The use of Requests for Proposals (RFP) and Request for Qualifications (RFQ) generally involve:

1. Evaluation of proposals - a process facilitated by Procurement staff
2. Discussions, negotiations, revised offers and Best and Final Offers
3. Award to one or more responsible proposers, considering the evaluation factors and award criteria set forth in the RFP
4. Geographic preferences are typically not allowed (except for Architect and Engineering Services).

#### 10.1.2. **Request for Qualifications (RFQ)**

The RFQ process is strictly for Architect and Engineering Services (A&E) only.



1. Qualifications-based competitive proposals are only allowed for Architect and Engineering Services (A&E). Qualifications-based competitive proposal procedures should be preferred when contracting for A&E services as defined in 40 U.S.C. Section 1102 and U.S.C. Section 5325(d). RCW 39.80 provides State of Washington regulations.

Services subject to this requirement include but are not limited to program management, construction management, feasibility studies, preliminary engineering, design, architectural, engineering, surveying, mapping, and related services.

2. Geographic location may be a selection criterion if an appropriate number of qualified firms are eligible to compete for the contract in view of the nature and size of the project.

When choosing Request for Qualifications (RFQ) procurement method, Procurement staff should consult the Revised Code of Washington 39.80, FTA Circular 4220.1F (or successor), and the Procurement and Contracts Manager or Procurement Supervisor to determine if the method of solicitation and contracting is allowed before proceeding.

**Any procedural reference to RFPs also applies to RFQs, unless there is specific direction to the contrary.**

### 10.2. Number Assignment

Procurement staff assigns a unique number that will serve as the official designation for the solicitation.

### 10.3. Official Proposal/Contract File

Procurement is responsible for creating and maintaining official solicitation/contract files. The file label shall identify the proposal number and proposal name.

### 10.4. General Information

Sets of General Terms and Conditions have been prepared for various types of solicitations. These sets, often referred to as boilerplates, have been reviewed by legal counsel and are to be utilized when preparing specification packets.

Procurement staff will review the electronic procurement boilerplate file and select the type of solicitation required, and verify with requesting department and Grant department whether grant money is being used where specific grant requirements must be followed.

Once the solicitation packet is officially made available for potential proposers to respond with written proposals, the proposal is considered “open” or “on the street”. The proposal remains open until the date and time indicated in the legal notice or solicitation instructions, as officially advertised to be the final date and time up to which proposals will be accepted, unless an addendum has been issued extending this date. When that time has passed, the proposal is then officially “closed”, and any proposals submitted beyond that time will be considered a late proposal and will be rejected. Requests for Proposal (RFP) and Requests for Qualifications (RFQ) will not be read publicly.

## 10.5. Overview of Steps

1. The requesting department and procurement will discuss the upcoming procurement and develop a procurement strategy, timeline and identify any significant risks.
2. Procurement staff, in coordination with the requesting department, will select a definite date and hour up to which proposals will be accepted, normally 3-4 weeks from the advertised date.
3. If required by statute or based on programmatic needs, Procurement staff will prepare the legal notice for advertisement per [Section 27](#). The solicitation may also be advertised in trade-specific publications.
4. Procurement staff receives the specifications or scope of work from the requesting departments with an IGCE, if the procurement is being processed as Formal. For procurements below the Formal Threshold an IGCE is not required.
5. Procurement staff will review these specifications and work with the user department to finalize the specifications. Procurement staff prepares the solicitation packet starting with the appropriate version of the boilerplate. Procurement Manager or Supervisor will approve the solicitation prior to publication. A printed copy of the solicitation, along with any attachments, is to be inserted in the solicitation file.
6. Procurement staff will review the list of potential proposers from the procurement vendor registration system by commodity code and include any other potential proposers.
7. In the event a pre-proposal conference is needed, Procurement staff will schedule and facilitate that event.
8. Responses to Requests for Proposal (RFP) or Requests for Qualifications (RFQ) will not be publicly read.

## 10.6. Additional Requirements

Proposals may have additional requirements depending on the specific nature of the product or service required, and defined, by the solicitation document. The additional/optional requirements may include, but not necessarily be limited to, the following:

### 1. Insurance Requirements:

The insurance requirements supplied in the boilerplates are standard but should be reviewed for applicability to the work in question.

### 2. Separate Contract, if required:

Once awarded, the proposal documents, including all terms and conditions therein, and the selected offer serves as the contract and Community Transit's approved 'as to form' contract document will be issued to the awarded vendor. If changes are negotiated, the

appropriate approved as to form contract shall be used with a separate section identified as “Negotiated Changes”.

### 10.7. **Creating a List of Potential Proposers**

1. Procurement staff will review the procurement registered vendor website by commodity code to ensure that a reasonable number of vendors will be notified.
2. If the vendor list does not provide a reasonable number of prospective proposers, other sources may be utilized as defined in [Section 5](#) Vendor Information.
3. Any potential proposer who requests a copy of the solicitation document shall be given the opportunity to access the full solicitation package, including any addenda that have been issued.
4. To maximize exposure to a large vendor base, Community Transit will publish its solicitations on Community Transit’s website.

### 10.8. **Posting the Solicitation**

1. After final review of the solicitation packet has been completed and approved by the Procurement Manager or Supervisor, the solicitation is ready to be posted at Community Transit’s website under the Procurement website for download by prospective proposers.
2. The Procurement Division’s website will show all open solicitations for Community Transit.
3. Procurement staff will determine whether posting of the solicitation solely on Community Transit’s website will generate sufficient responses. Prospective proposers will be e-mailed with information on how to access and download the solicitation documents.
4. The RFP or RFQ may be advertised in the newspaper of record, The Everett Herald and may also be advertised in other locations at the sole discretion of Community Transit.

### 10.9. **Information Non-Disclosed During the Solicitation Process**

1. Generally, the requesting department’s estimate of cost and the amount of funds allocated for the purchase are not to be disclosed.
2. No material information may be supplied to only one or a few proposers. All proposers must receive the same material information.
3. In general, with the exception of the assigned Procurement staff for the RFP/RFQ, all Community Transit staff are prohibited from divulging advance information about the procurement because a competitive advantage could result in a prospective proposer receiving information prior to the time it is released to the public.

### 10.10. **Amending the Solicitation**

The document that amends the solicitation is called an Addendum.

1. Addenda may be issued prior to the solicitation closing time and date under the following circumstances:
  - a) Specification change, correction and/or clarification
  - b) Modification of the terms and conditions
  - c) Cancellation of the solicitation
2. If an addendum is required, Procurement staff will take the following steps in order to inform prospective proposers:
  - a) Issue the addendum in writing, copies of which must be sent to all parties who received copies of the original solicitation document either through mail or by e-mail notification, and those who downloaded the solicitation from Community Transit's website. The addendum is to be posted on Community Transit's website.
  - b) Give information orally to all prospective proposers ONLY if urgency warrants advance notice of intent to issue addendum and identical information is supplied to all prospective proposers. Care should be taken to notify all prospective proposers within a short time frame.
3. The issuance of an addendum may require postponing the response due date of the proposal in order to ensure that the prospective proposers will have ample time in which to prepare proposals on the amended basis. When postponement is needed, the response due date will generally be postponed by one week. The notice of postponement should be combined with the basic addendum.
4. No addendum shall be issued later than two calendar days prior to the response due date except an addendum:
  - a) Withdrawing the solicitation, or
  - b) One which includes postponement of the response due date, or
  - c) If unusual circumstances warrant a change in the response due date, e.g., severe weather conditions do not allow prospective proposers to deliver their proposal, or
  - d) Other unusual circumstances where information must be shared with proposers but does not warrant an extension of the response due date.

#### 10.11. Receipt and Safeguarding of Proposals

1. Proposal envelopes will be promptly date-stamped as soon as they are received. Proposals are to be kept in a secure area.
2. When it is impossible to determine the presence and/or identity of a proposal inside a sealed envelope, Procurement staff will open the envelope for identification purposes only. Staff will immediately note the solicitation name, number and due date on the outside of

the envelope, noting on the envelope that it was an unmarked proposal and that it was opened for identification purposes, initialed and the proposal is then resealed with tape. Caution with this procedure must be exercised to protect the integrity of the sealed proposal process.

3. When proposals are received into the department by other than USPS Mail (hand delivered, courier, express mail, etc.):
  - a) The proposal must be signed for as required by the courier or express mail carrier.
  - b) The proposal must be in a sealed envelope identified with the solicitation number, name and proposal due date. If the bid is hand delivered by the proposer without this information, the person should be asked to put the information on the proposal.
4. Proposals received after the time and date specified in the solicitation document shall be handled in the following manner:
  - a) If the proposal is hand delivered by the proposer:

It shall be time-stamped to establish late delivery, photocopy envelope for file, and subsequently returned unopened to the sender with a notation on the package "Returned to sender –Package received after closing time and date". Such proposals will not be entered in the tabulation sheet. If a photocopy of the late offer is not possible, a memo to file should document the event.

If extraordinary circumstances are present, staff should consult the Procurement & Contracts Manager or Supervisor for exception to this requirement.
  - b) If the proposal has been delivered by mail or by paid courier, promptly date and time stamp the envelope. Then, photocopy the envelope and return the sealed proposal by mail unopened with a rejection letter. The photocopy of the sealed envelope and the rejection letter shall be retained in the solicitation file.
  - c) It is not necessary to return late "no bid" responses. This type of late proposal should be retained in the proposal file.

## 10.12. Evaluation of RFPs and RFQs

### 10.12.1. Evaluation Criteria and Methodology

The evaluation criteria and methodology will be established prior to issuing the solicitation. Criteria shall be aligned with specifications and other pertinent factors.

See Section 11 Architect and Engineering (A & E) Services for procedures for evaluation and award of RFQ's for A&E services.

## **10.12.2. Evaluation Committee**

Proposals will be reviewed by an evaluation committee. The composition of the evaluation committee is normally suggested by the requesting department in coordination with Procurement staff. Procurement staff shall be assigned to facilitate and manage the evaluation.

## **10.12.3. Responsibility Determination**

Upon identification of the highest rated proposal, which establishes the firms' responsibility/ability to perform the work, Procurement staff should conduct other responsibility checks such as:

- Verify debarment status of successful proposer
- Ability to meet insurance requirements
- Meet any surety requirements, etc.

## **10.13. Disclosure of Information**

The contents of proposals submitted in response to RFPs and RFQs are considered confidential throughout the review and award process, and are never disclosed to other proposers or other staff or consultants during this period. Only staff or consultants that have signed a non-disclosure agreement will receive information pertaining to the proposals received.

## **10.14. Confidential and Proprietary Information**

1. Some proposals may include statements stipulating that part or all of the information is proprietary. Review all documents related to an RFP thoroughly for proprietary information before releasing documents or information to other offerors. Follow the process stated in Community Transit's PO or Contract Terms and Condition and RCW 42.56 Public Records Act. All requests must be submitted following the Request for Public Information process. No information will be released to proposers before contract award.
2. Confidential and proprietary information shall be preserved appropriately for the life of the document(s). Requests for review or release of confidential information must be discussed with legal counsel and handled pursuant to public disclosure laws.

## **10.15. RFP Content**

Using information supplied by the requesting department, Procurement staff will draft an RFP which contains, at a minimum, the following:

1. Purpose or scope of work and specifications,
2. Proposal format, which should include specific criteria that offerors are to address,
3. Explanation of the selection and award process,
4. Specific information regarding submittal procedures and deadlines.

## 10.16. Recording of Proposals Received

Procurement staff will open the proposals and check to ensure that the proposers are responsive. The information to be recorded is the name of the proposer, the fact that a proposal was received, and that the required submittals were received. No dollar amounts are recorded or revealed. The tabulation sheet is not posted.

## 10.17. Correction or Withdrawal of Proposals after Submission

In any request or decision involving a mistake in the proposals submitted, Procurement staff shall first consult with the Procurement & Contracts Manager or Supervisor to consider whether the mistake may be deemed inconsequential and therefore correctable. The Procurement and Contracts Manager may allow the proposer to withdraw a proposal with an irrevocable error, subject to legal review. Staff will advise the proposer of the potential impact on future awards created by withdrawal.

## 10.18. Reservation to Reject Proposals

1. The Procurement Division may reject any and all proposals for the following reasons:
  - a) Offer is incomplete, irregular, amplified, qualified or does not otherwise comply with requirements.
  - b) Failure to provide bid security or other data required by the RFP/RFQ solicitation.
  - c) It is determined to be in the best interest of Community Transit to reject any or all proposals.
2. The Procurement Division may also waive any informality, irregularity, immaterial defects or technicalities in any proposal(s) received, when such are considered to be minor and/or do not affect the specifications or provide a competitive advantage to any party.

## 10.19. Negotiations

Negotiations are a useful tool to bridge gaps in understanding of scope, terms and conditions and other requirements. Negotiations help the parties develop clarity and equal understanding of the contract so that they can together ensure best outcomes. It is an opportunity to strengthen the pros of a proposal and eliminate or reduce the cons of a proposal.

Various reasons cause the need for negotiations, such as: resolving minor differences and informalities (or mitigate any variances), clarifying necessary contract details and responsibilities, emphasizing important issues and points, receiving assurances from proposers, and exploring ways to improve the final contract.

Community Transit may conduct further evaluation of proposals by interviews or negotiations with one or more proposers. To do so, a competitive range (by evaluation score or price) is used to identify the proposals that have a reasonable chance of being selected for award.

There are three general stages of negotiation: planning, actual negotiations, and completion.

## **10.19.1. Planning Phase**

The planning phase is crucial to the success of the negotiations. A negotiation team will should be identified for a major acquisition. The team may include some or all members of the evaluation committee.

The make-up of a negotiating team will vary, but a typical team should include Procurement staff, Project Manager, technical staff, financial analyst, and legal expert. The team leader is usually the Procurement staff. A team leader must have the full support of the negotiating team and the organization. It is important for the team leader to possess a range of skills, including: the ability to make sound decisions under pressure; tact and an ability to build consensus; an even temper; flexibility; confidence and trustworthiness; the ability to reason and the confidence of superiors who have veto power over negotiations. The following are essential responsibilities of the team leader: act as the spokesperson for the team, make and respond to all offers, initiate plans, strategies, and objectives, set the timetable for pre-negotiation work, control the comments at the sessions, assign team member roles, obtain technical representation, as needed and interact with the other side before the negotiations start to agree on team size and other logistical items.

It is prudent to document the planning phase and establish Community Transit's position prior to starting actual negotiations.

## **10.19.2. Conducting Negotiations**

Conducting actual negotiations is a very complex process that should be led and performed by a trained member. The majority of time in a negotiation should be spent planning and preparing. Preparation includes gaining a technical understanding of what is being negotiated and performing an analysis of each side's negotiating positions. Procurement staff must determine how much competition there is to provide a particular product or service. The team leader should ensure that a thorough cost or price analysis is prepared. For every term and condition to be negotiated, an objective minimum and maximum negotiating goal should be prepared. The negotiating team must anticipate the tactics that will be used by the other side and prepare responses.

## **10.19.3. Completion**

Procurement staff will document the outcome of the negotiations to be included in the final contract.

## **10.20. Best and Final Offer**

Community Transit may use a best and final offer process, if necessary. The evaluation of the best and final offer will be on the same criteria as the original proposal.



## 10.21. Award of Contract

After determination of the successful vendor for contract award, the following steps shall be taken by Procurement staff:

1. Prepare Award Memo for the appropriate committee if the contract requires Board of Directors award approval. For all other awards, the contract file must reflect the justification – this documentation should match the nature and complexity of the contract.
2. Notify the successful and unsuccessful proposers as well as all record holders of award recommendation by issuance of an Intent to Award.
3. Request any supplemental documents, (i.e. insurance, bonding) that are required before award is made.
4. Post Intent to Award on Community Transit's website, to inform the public and all bidders/record holders. This posting starts the procurement protest period. Timing for issuance of intent to award shall be:
  - a) If a contract award requires BOD approval:
    - Procurement staff drafts an award memo, for committee approval, once a potential contractor is identified.
    - Committee meetings typically occur in the 3rd week of the month. BOD meetings occur on the 1st Thursday of the month. Therefore, usually there is a 2-week gap between Committee and BOD meetings.
    - Once the Committee approves, staff issues an Intent to Award. Since the intent to award has a 5-business day timeline for protest, any protest will be received before the BOD meeting (in which case, the item will be removed from the BOD agenda).
    - If for some reason the time gap between Committee and BOD meeting is less than 2-weeks or other conditions require early action, staff will issue the Notice of Intent to Award as soon as the directors have approved the Committee memo or provided specific permission.
  - b) If an item is below BOD threshold, staff will issue the Intent to Award notice and insure that the 5-business day timeline for protest has passed before processing contract.
5. Prepare sound and complete contract documents. Secure signatures, and at the right time issue Notice to Proceed to vendor.
6. The award will be posted on Community Transit's website.
7. Procurement staff will document the procurement history for the contract file.

### 10.22. Single Proposal

In the event that only one proposal is received, Procurement staff will conduct a price or cost analysis of the proposal. (See [Section 41](#) Cost and Price Analysis).

### 10.23. Decision to Re-Issue the Solicitation

A re-issue can be initiated, before or after the proposal due date, for the following reasons:

1. Inadequate or ambiguous specifications.
2. Specifications have been revised substantially.
3. Change in Community Transit's requirements.
4. All proposals are deemed unreasonable or for other reason(s) unacceptable.
5. A determination is made that all necessary requirements of the solicitation process have not been fulfilled.
6. Insufficient competition.
7. If is determined that it is in Community Transit's best interest to re-issue.

When it has been determined by Procurement and/or the requesting department that a re-issue is necessary, Procurement staff prepares and issues the new Request for Proposals. All previously discussed policy must be followed.

### 10.24. Cancellation of Solicitation

Community Transit may cancel a solicitation for the following reasons:

1. Supplies or services are no longer needed.
2. Funding is insufficient for the supplies or services required.
3. For other reason(s) that indicate the cancellation or rejection of all proposals is clearly in the best interest of the agency.

### 10.25. Protests and Appeals

All protests and appeals will be processed in accordance with Community Transit's Procurement Protest Procedures ([Section 39](#)).

## Section 11. [Architect and Engineering \(A & E\) Services – Formal Procurement](#)

For procurement of A&E services, a Request for Qualifications shall be issued following the Brooks Act procedures as defined in 40 U.S.C. Section 1102 and U.S.C. Section 5325(d) or RCW 39.80, depending on funding source.

## 11.1. Architectural and Engineering Services Defined

1. Professional services of an architectural or engineering nature, as defined by State law, if applicable, which are required to be performed or approved by a person licensed, registered, or certified to provide such services as described in this section;
2. Professional services of an architectural or engineering nature performed by contract that are associated with research, planning, development, design, construction, alteration, or repair of real property; and
3. Other professional services of an architectural or engineering nature, or incidental services, which members of the architectural and engineering professions (and individuals in their employ) may logically or justifiably perform, including studies, investigations, surveying and mapping, tests, evaluations, consultations, comprehensive planning, program management, conceptual designs, plans and specifications, value engineering, construction phase services, soils engineering, drawing reviews, preparation of operation and maintenance manuals, and other related services.

## 11.2. Evaluation and Selection Process

The Brooks Act and RCW 39.80 require a qualification based procurement method for the award of contract to an A & E firm. Price is excluded as an evaluation factor, and negotiations are conducted with the most qualified firm only. If an agreement cannot be reached with the most qualified firm, negotiations are formally terminated with that firm, thereby rejecting that firm's proposal. Community Transit cannot return to this firm at a later date to resume negotiations. Negotiations are then conducted with the next most qualified firm. This process continues until a negotiated agreement is reached which Community Transit considers to be fair and reasonable.

## 11.3. Establishment of a Qualified Vendor List with A & E Firms

Community Transit may establish a Qualified Vendor List (QVL) with more than one A&E firms to obtain timely contracts and other business reasons. The QVL will remain open to promote full and open competition. Geographic location may be a selection criterion if an appropriate number of qualified firms are eligible to compete for the contracts in view of the nature and size of the projects. A Request for Qualifications announcing an opportunity for multiple A&E services to be pre-qualified will be used to acquire these services, following the Brooks Act and RCW 39.80.

Obtaining a contract and then a task order is a two-step process.

### 11.3.1. Step One – Qualifications

A&E firms must respond to a Request for Qualification. Community Transit will evaluate the Statements of Qualification and pre-qualify firms, for specific disciplines (NAICS codes). Each firm is awarded a master contract.

## 11.3.2. Step Two - Selection of A & E Firms for Specific Projects

Community Transit staff will review each qualified A&E firm's Statement of Qualifications and past performance information, for the required discipline, to determine the best qualified A&E firm(s) for the project. Interview(s) and other steps maybe taken to establish ranking of the best qualified firms.

The Project Manager provides a general scope of work to the most qualified firm. The firm shall submit a detailed scope of work. The parties negotiate to develop a mutually acceptable scope. The Project Manager develops an independent government cost estimate and requests the firm to submit a price offer. The price offer is negotiated during which phase the scope may be further refined. If negotiations fail, the next best qualified A & E firm will be contacted, following the same process. This process continues until a negotiated agreement is reached which Community Transit considers to be fair and reasonable.

## 11.4. Task Order Process

The Project Manager assigned to the specific project, in collaboration with Procurement staff, will complete a Task Order for the A&E firm's signature. The signed Task Order with attachments, (i.e., scope of work, pricing proposal, etc.), will be incorporated into a Purchase Order which establishes the contract for the specific project.

## 11.5. Contract File

The original Task Order will be filed behind the original contract file of each A&E firm. A copy of the Task Order will be sent to the A&E firm and to the Project Manager.

## Section 12. [General Construction/Public Works Projects – Formal Procurement](#)

Construction and Public Works projects are governed and must be solicited in accordance with RCW 39.04, 39.06, and 39.12 and any future revisions. In the event these projects are funded with federal funds, appropriate federal terms and conditions must also be included in the solicitation and federal requirements must be followed per FTA Circular 4220.1F or revisions thereto.

## 12.1. Initiating Department Responsibilities

Departments initiating such projects will provide the following to the Procurement Division:

1. Plans
2. Specifications
3. Project duration/Project Start Date
4. Independent government cost estimate
5. Supplemental bidder responsibility criteria and justification

### 12.2. Procurement Division Responsibilities

1. Review specifications or scopes of work to align with market conditions
2. Review specifications or scopes of work for restrictiveness and format
3. Combine technical specifications with General Instructions to bidders
4. Attach special provisions as necessary
5. Coordinate publication and availability of solicitation and plans
6. Provide mandatory bid forms
7. Issue legal notice to Newspaper of Record, as per Section 27

### 12.3. Bonding Requirements

State of Washington RCW 39.08 defines bonding requirements for non-federally funded projects. FTA Circular 4220 defines bonding requirements for federally funded projects.

#### 12.3.1. Bid Guarantee

Bid Guarantee may be requested from each bidder equivalent to five (5) percent of the bid price. The “bid guarantee” shall consist of a firm commitment such as bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of their bid, execute such contractual documents as may be required within the time specified.

Applicability:

1. RCW does not require a bid guarantee.
2. FTA does not require a bid guarantee below the simplified acquisition threshold. For procurement above the simplified acquisition threshold a bid guarantee is required unless FTA determines that other arrangements adequately protect the Federal interest.

#### 12.3.2. Performance Bond

A “performance bond” is executed in connection with a contract to ensure fulfillment of all the contractor’s obligations under the contract, and must be obtained for 100% of the contract price.

While RCW and other statutes permit lowering of bond requirement, it is not accepted by the surety industry as it is difficult to practice.

#### 12.3.3. Payment Bond

A “payment bond” is executed in connection with a contract to ensure fulfillment of all the contractor’s payment obligations under the contract, and usually is obtained for 100% of the contract price.

RCW 39.80.030 permits lowering of Payment bonds to a minimum of 25%.

### 12.4. Required Small Business Contract Clauses

Pursuant to Community Transit's SBE/DBE policy, the following clauses will apply to all Contractors and Subcontractors:

#### 12.4.1. Contract Assurance

The following clause must be incorporated in every construction or public works contract and subcontract:

The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration Community Transit contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

#### 12.4.2. Prompt Payment & Retainage

The following clause must incorporated in every Community Transit construction or public works prime contract:

Per RCW 39.04.250, the prime contractor shall pay each subcontractor for satisfactory performance of work no later than ten days from the prime contractor's receipt of each payment from Community Transit. Community Transit will not withhold any retainage or payments owing to the Prime Contractor. The Prime contractor shall not withhold any retainage or payments owing to any subcontractor. No delays or postponements of payment from the above referenced time frame may occur unless approved in writing by Community Transit for good cause. This clause applies to SBE/DBE and non-SBE/DBE subcontracts and shall flow down.

### 12.5. Other Requirements

**Solicitation and Award of the contract shall be made in accordance with [Section 9](#) and [Section 6](#), established dollar thresholds and other regulations and requirements. Pre-Bid Conference**

Procurement staff facilitates the pre-bid conference with the assistance of the project manager to provide clarifications and answer questions pertaining to the solicitation. Important information documented at the pre-bid conference will be issued in the form of an addendum and posted on Community Transit's website.

Procurement staff will make a determination if a pre-bid conference is required for a procurement. At that time, the staff will also decide if the conference should be optional or mandatory.

### 12.6. Receipt of Bids

The same process as for Invitation to Bid (ITB) shall be followed (See [Section 9](#)).

## 12.7. Bid Openings

The same process as for Invitation to Bid (ITB) shall be followed (See [Section 9](#)).

## 12.8. Evaluation of Bids

Construction bids shall be evaluated in accordance with RCW 39.04, 39.06.010, and 39.12.065 (3) to determine the lowest bid which is also responsive, and the bidder is determined to be responsible per the requirements of the ITB. In the event contract options were included, such options must be evaluated at the same time the base requirements are being evaluated. Award of options may not be exercised unless it has been determined that the option price is better than prices available in the market, or that when the agency intends to exercise the option, the option is more advantageous.

## 12.9. Award

1. Before making the award Procurement staff will issue the Intent to Award notice to the contractor and inform other bidders. Timing for issuance of intent to award shall be:
  - a) If a contract award requires BOD approval:
    - Procurement staff drafts an award memo, for committee approval, once a potential contractor is identified.
    - Committee meetings typically occur in the 3rd week of the month. BOD meetings occur on the 1st Thursday of the month. Therefore, usually there is a 2-week gap between Committee and BOD meetings.
    - Once the Committee approves, staff issues an Intent to Award. Since the intent to award has a 5-business day timeline for protest, any protest will be received before the BOD meeting (in which case, the item will be removed from the BOD agenda).
    - If for some reason the time gap between Committee and BOD meeting is less than 2-weeks, staff will issue the Intent to Award as soon as the directors have approved the Committee memo – which is typically 10-days before Committee meeting.
  - b) If an item is below BOD threshold, staff will issue the Intent to Award notice and ensure that the 5-business day timeline for protest has passed before processing contract.
2. The intent notice requests that the contractor submit its insurance and bonding documents, as may be applicable, within ten days following receipt of the Intent to Award, (before actual work can start). Once the required documents are received, and a contract is executed, Procurement staff will issue the Notice to Proceed, per schedule.

3. In the event the bid exceeds the Chief Executive Officer's award authority, the Board of Directors will make the award and procedures described in [Section 9.17 Award of Contract](#), and [Section 28 Agenda Item Requests for Board Approval](#), must be followed.

### Section 13. [Construction Projects Using Federal Funds- Formal Procurement](#)

Construction projects are governed and must be solicited in accordance with Washington State Public Works laws and FTA Circular 4220.1F (or the current circular if updated) and the corresponding Best Practices Procurement Manual. A formal Invitation to Bid (ITB) will be issued and appropriate federal terms and conditions must also be included in the solicitation.

#### 13.1. **Initiating Department Responsibilities and Procurement Division Responsibilities**

##### 13.1.1. **Initiating Department Responsibilities**

Departments initiating construction projects will provide the following to the Procurement Division:

1. Plans
2. Specifications
3. Project duration/Project Start Date
4. Independent Government Cost Estimate (IGCE)
5. Supplemental bidder responsibility criteria and justification
6. Any additional information, as to assist bidders

##### 13.1.2. **Procurement Division Responsibilities**

1. Provide assistance in identifying procurement requirements and options
2. Review specifications or scopes of work for restrictiveness and final format
3. Combine technical specifications with General Instructions to bidders
4. Attach special provisions as necessary
5. Coordinate publication and availability of solicitation and plans
6. Provide mandatory bid forms
7. Issue legal notice to Newspaper of Record, as per [Section 27](#)

#### 13.2. **Bonding Requirements**

A "payment bond" is executed in connection with a contract to ensure fulfillment of all the contractor's payment obligations under the contract, and usually is obtained for 100% of the contract price. RCW 39.80.030 permits lowering of Payment bonds to a minimum of 25%.

For federally funded projects, performance and payment bonds of 100% of contract amount must be obtained.



### 13.3. Required DBE Contract Clauses

Pursuant to Community Transit's SBE/DBE policy, the following clauses will apply to all Contractors and Subcontractors:

#### 13.3.1. Contract Assurance

The following clause must be incorporated in every FTA-assisted contract and subcontract:

The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of FTA-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

#### 13.3.2. Prompt Payment & Retainage

The following clause must be incorporated in every FTA-assisted prime contract:

The Contractor shall pay each subcontractor for satisfactory performance of work no later than ten days from the Contractor's receipt of each payment from Community Transit. Community Transit will not withhold any retainage or payments owing to the Contractor, if a performance and payment bond of 100% of contract amount has been provided by the Contractor. The Contractor shall not withhold any retainage or payments owing to any subcontractor. No delays or postponements of payment from the above referenced time frame may occur unless approved in writing by Community Transit for good cause. This clause applies to SBE/DBE and non-SBE/DBE subcontracts and shall flow down.

#### 13.3.3. Resolving Payment Disputes

Per 49 CFR §26.29 prime contractors shall include in their subcontracts language providing that prime contractors and subcontractors will use appropriate alternative dispute resolution mechanisms to resolve payment disputes.

Further, in a payment dispute situation Community Transit will not reimburse the prime contractor for work performed by subcontractors unless and until the prime contractor ensures that the subcontractors are promptly paid for the work they have performed.

### 13.4. Other Requirements

Solicitation and Award of the contract shall be made in accordance with [Section 9](#) and [Section 6](#), established dollar thresholds and other federal regulations and requirements (Buy America Act, Davis Bacon Act, etc.)

## Section 14. [Construction Projects with No Federal Funds – Formal Procurement](#)

### 14.1. **General**

Non-federally funded Construction projects are governed and must be solicited in accordance with RCW 39.04, 39.06, 39.12, and other regulations and their revisions.

The solicitation must be publicly advertised and a public bid opening is held, if an ITB is issued.

This solicitation follows all requirements of the formal Invitation to Bid ([Section 9](#)) and the approval requirements (see [Section 6](#)).

### 14.2. **Alternative Project Delivery Method for Public Works: Job Order Contracting (JOC)**

Community Transit received legislative approval to utilize JOC in mid-2017. This process may be used to procure public works (construction services) in accordance with RCW 39.10.420 et al. The RCW delineates procurement requirements (e.g. solicitation process, evaluation criteria, etc.) and contractual requirements (e.g. contract term, maximum contract amount, maximum Work Order amount, etc.).

## Section 15. [Public Works – Small Works Roster](#)

The small works roster usage is governed under RCW 39.04.155.

### 15.1. **General**

Community Transit allows the use of a shared small works roster to solicit bids for public works. Community Transit may elect to establish its own small works roster if it is in the best interest of the agency to do so. Should the agency decide to establish its own small works roster, it may have a general small works roster or a small works roster for different specialties or categories of anticipated work.

However, for projects this size, Community Transit currently uses, Request for Quotes, Job Order Contracting, or the formal Invitation to Bid approach if it is in the best interest of the agency to do so.

## Section 16. [Limited Public Works](#)

The requirements of this chapter pertain only to public works projects described in RCW 39.04.155.

### 16.1. **General**

Community Transit allows the use of Limited Public Works process to solicit bids, within the Small Works Roster. Community Transit may elect to establish its own small works roster if it is in the best interest of the agency to do so. Should the agency decide to establish its own small works roster, it may have a general small works roster or a small works roster for different specialties or categories of anticipated work.

However, for projects this size, Community Transit currently uses, Request for Quotes, Job Order Contracting, or the formal Invitation to Bid approach if it is in the best interest of the agency to do so.

## Section 17. [Purchasing Subject to Prevailing Wages](#)

### 17.1. General

Regardless of the dollar limit, in the event a service request is identified as maintenance, subject to prevailing wage, Procurement staff will manage the process and all documentation requirements. Bidding thresholds for obtaining competition shall be met. The most current Prevailing Wage determination issued by the Washington State Department of Labor and Industries shall be provided (website link etc.) to the bidders per RCW 39.12.

## Section 18. [Emergency Purchases](#)

### 18.1. Definition

An “emergency” purchase is defined as a purchase in response to unforeseen circumstances, beyond the control of Community Transit which presents a real, immediate and/or extreme threat to the proper performance of essential functions, where there is a threat to health, welfare, or safety, and where a delay in award of a contract may result in serious injury, financial or other, to Community Transit.

### 18.2. Authorization

The Chief Executive Officer or designee may make or authorize Community Transit personnel to make emergency purchases in the open market without advertisement or competition at the best obtainable price regardless of the amount of the expenditure. Such emergency purchases will be made with regards to competition as is practicable under the circumstances. Per Board Resolution 05-11, all emergency purchases in excess of one hundred thousand dollars (\$100,000) shall be reported to the Board of Directors within 30 days.

### 18.3. Legal Notice

When any emergency shall require the immediate execution of such public work, upon a finding of the existence of such emergency by the Agency, publication of description and estimate may be made within 7 days after the commencement of the work.

## Section 19. [Sole Source](#)

This is a contract awarded for a material or service without competition.

### 19.1. Definition

A sole source procurement occurs when Community Transit requires supplies or services available from only one responsible source, and no other supplies or services will satisfy its requirements, the agency may make a sole source award.

For further clarification, a sole source is defined as:

1. Regardless of the market place, the one and only source that possesses a unique and singularly available performance capability.
2. Only source known to be in existence for an item or source without any distributors.
3. The supplies and services required are available from only one source and no other type of supplier will satisfy the requirement.

### 19.2. Sole Source Justification

When a department has identified a need for sole source procurement and cannot consider alternate products, a detailed written justification explaining why other vendors or products are unacceptable must be provided for review and concurrence. Staff must determine that the price is fair and reasonable.

The following criteria may be used to support a sole source procurement:

1. Unique Capability or Availability: Regardless of the market place, the one and only source that possesses a unique and singularly available performance capability, based on
  - Unique or Innovative Concept
  - Patents or Restricted Data Rights
  - Substantial Duplication Costs
  - Unacceptable Delay
2. Unusual and Compelling Urgency: Public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation,
3. FTA or applicable federal agency authorizes noncompetitive negotiations,
4. After solicitation of a number of sources, competition is determined inadequate,
5. The item is an associated capital maintenance item as defined in 49 U.S.C. §5307(a)(1) that is procured directly from the OEM. Must certify to FTA or applicable federal agency that this is the only source and the price is no higher than for like customers.

Sole Source purchases must be approved in accordance with the thresholds established by the Chief Executive Officer.

## Section 20. [Contract Types](#)

Contracts at Community Transit are typically Fixed price (Firm Fixed or with Economic Price Adjustment) or Cost reimbursement (Time-and-Materials, Labor-Hour, and Indefinite Delivery). Procurement staff are responsible for determining the contract type for a procurement. The following table provides an outline.

Fixed Price (greater risk on contractor)			
Contract Type	Application and Essential Elements	Suitability	Limitations
Firm Fixed Price	<ul style="list-style-type: none"> <li>Reasonably definite product, design or performance specification available.</li> <li>Fair and reasonable price can be established at outset.</li> <li>Conditions For Use:                             <ul style="list-style-type: none"> <li>Possible uncertainties in performance can be identified and costed.</li> <li>Contractor willing to accept contract at a level which causes them to take all financial risks.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Commercially available products or services; construction services; or items or services for which reasonable firm fixed prices can be established.</li> </ul>	<ul style="list-style-type: none"> <li>Price not subject to adjustment regardless of contractor performance costs.</li> <li>Places 100% of financial risk on contractor.</li> <li>Preferred over all other contract types.</li> </ul>
Fixed Price with Economic Adjustment (EPA)	<ul style="list-style-type: none"> <li>Unstable market or labor conditions during the contract period and contingencies which would otherwise be included in the contract price can be identified and made the subject of separate price adjustment clauses.</li> <li>Provides for upward adjustment (with ceiling) in contract price.</li> <li>May provide for downward adjustment if price of escalated element has potential of falling below the limits established in the contract.</li> <li>Three general types of EPAs are:                             <ul style="list-style-type: none"> <li>Adjustments based on established prices.</li> <li>Adjustments based on actual costs of labor or material.</li> <li>Adjustments based on cost indexes of labor or material.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Price can be adjusted up or down upon action of an industry wide contingency which is beyond contractor's control.</li> <li>Reduces contractors fixed price risk.</li> <li>Fixed price with EPA is preferred over any cost reimbursement type contract.</li> </ul>	<ul style="list-style-type: none"> <li>Commercially available products or services for which reasonable prices can be established at time of award, and services.</li> </ul>

### Cost Reimbursement (greater risk on Government)

Contract Type	Application and Essential Elements	Suitability	Limitations
Cost Plus Fixed Fee	<ul style="list-style-type: none"> <li>Level of effort is unknown, and contractor's performance cannot be subjectively evaluated.</li> <li>Provides for payment of a fixed fee. Contractor receives fixed fee regardless of the actual costs they incur during performance.</li> </ul>	<ul style="list-style-type: none"> <li>A&amp;E or other development effort when the task can be clearly defined, a definite goal or target is expressed, and a specific end product is required.</li> </ul>	<ul style="list-style-type: none"> <li>Contractor has minimum incentive to control costs.</li> <li>Costly to administer.</li> <li>Contractor must have an adequate accounting system.</li> <li>Least preferred type because contractor assumes no financial risk.</li> <li>Used only with A&amp;E.</li> </ul>
Time and Material	<ul style="list-style-type: none"> <li>Not possible at time of placing contract to estimate extent or duration of the work, or anticipated cost, with any degree of confidence.</li> <li>Calls for provision of direct labor hours at specified hourly rate and material at cost (or some other basis specified in contract).</li> <li>Ceiling price established at time of award.</li> </ul>	<ul style="list-style-type: none"> <li>Temporary services; Consulting Services etc.</li> </ul>	<ul style="list-style-type: none"> <li>Used only after determination that no other type will serve purpose.</li> <li>Does not encourage effective cost control.</li> <li>Requires almost constant surveillance by the agency to insure effective contractor management.</li> <li>Ceiling price required in contract.</li> </ul>
Labor Hours	<ul style="list-style-type: none"> <li>A variant of time and materials contract differing only in that materials are not furnished by contractor.</li> <li>Often used in conjunction with other contract types.</li> </ul>	<ul style="list-style-type: none"> <li>Used only for services.</li> </ul>	<ul style="list-style-type: none"> <li>Same as time and materials.</li> </ul>
Indefinite Delivery	<ul style="list-style-type: none"> <li>The exact time of delivery is unknown at time of award and a known performance period.</li> </ul> <p>There are three types of indefinite delivery contracts:</p> <ul style="list-style-type: none"> <li>DEFINITE QUANTITY: definite quantity of specified supplies or services for a fixed period of time. Deliveries or performance at designated locations, upon order. Supplies regularly available, or after short lead time.</li> <li>REQUIREMENTS: fills all actual Government requirements of</li> </ul>	<ul style="list-style-type: none"> <li>Commercial or modified commercial supplies or services when the need is recurring.</li> </ul>	<ul style="list-style-type: none"> <li>REQUIREMENTS: flexibility in quantity and delivery schedule. Orders placed only after need materializes.</li> <li>INDEFINITE QUANTITY: flexible quantity and delivery schedule. Orders placed only after need materializes. Limits agency obligation. Minimum stockage levels maintained.</li> </ul>

	<p>specified supplies or services, of designated activities during specified contract period contract contains estimated total quantity, maximum limit of contractor's liability, and a limit to the government's ordering obligation. Funds are obligated by each order and NOT by the contract.</p> <ul style="list-style-type: none"> <li>• INDEFINITE QUANTITY: contractor provides within stated limits, specified supplies or services, during specified contract period. Contract contains a minimum agency obligation and a stated maximum order quantity and thereafter by each order. Used when it is impossible to determine precise need and the agency does not wish to commit itself for more than minimum quantity.</li> </ul>		<ul style="list-style-type: none"> <li>• Used only with fixed price type contracts.</li> </ul>
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### Risk assessment to establish procurement strategy and contract type

A contract type reflects the level and timing of the responsibility and risk assumed by Community Transit or its vendor for the cost of performance. The following table provides an overview and a point of reference for risk assessment.

Characteristics	Cost-Reimbursement	Fixed-Price
Promise of performance	Best effort	Shall deliver
Risk to vendor	Low	High
Risk to Community Transit	High	Low
Administration	High for Community Transit	Least for Community Transit
Fee or profit	Negotiated	No limit

## Section 21. [Purchase Orders](#)

### 21.1. Conditions of use for Purchase Order (PO) as a contract

1. The PO may be used as a contract for:
  - a) One-time fixed price purchase of goods and/or services
  - b) Contracts that are simple goods or services, irrespective of value.

2. Purchase orders for services must be well defined and straightforward. Agreements submitted by vendors that are not consistent with Community Transit's terms and conditions must always be reviewed for appropriateness. The Procurement and Contracts Manager or designee is available to assist with these reviews, which may require review by legal counsel. These agreements are considered "not to form" contracts and must be handled accordingly. If the Purchase Order is a result of a solicitation, the solicitation number must be incorporated by reference.

All purchase orders must refer to Community Transit's website for the PO & Quote Terms and Conditions. The Terms and Conditions written in solicitation documents will prevail over PO T&C's.

### 21.2. Types of Purchase Orders

Purchase Orders at Community Transit are of three types, numbered, blanket and contract. Procurement staff are responsible for deciding the Purchase Order type for a procurement. The following table provides an outline.

PO type	Example:	Description
Blanket PO or BPO	B2018XXX	<b>No</b> established contract in our contract database. This type of PO will be invoiced against over and over again. BPOs are "amount only" and "do not receive". They will need to be lump sum (i.e. Qty 1 @ \$10,000).  Examples: utilities, employee benefits, postage, etc.
Contract PO or CPO	C2018XXX	Established Contract exists in our contract database. CPOs can be either "amount only" (like a Blanket PO) or itemized. The Contract number must be referenced.
Numbered PO	00000XXXXX	<b>No</b> contract. These are typically itemized and may need to be received. Example: 72 widgets @ \$100 = \$7,200. These typically are one-time use orders.

### 21.3. Blanket Purchase Order (BPO) - Used During the Calendar Year

Blanket Purchase Orders are created in PeopleSoft for micro-purchase orders which will span a period of time and have a maximum expenditure limit; often include indefinite quantities; are often based on price arrangements other than a fixed price; and include products and/or services.

## Section 22. [Multiple Award/Task Order Contracts](#)

### 22.1. Preparing Multiple Award/Task Order Contracts

Community Transit may make multiple contracts awards from a single competitive solicitation if the required deliverables have to meet programmatic needs that would be best supported by multiple vendors. Typically, multiple contract awards are made to assure the quality or timeliness of deliveries or services in critical areas or where a single vendor may not be able to meet the demands.



Community Transit may make multiple task order awards under a single master contract if the nature of deliverables are such that issuing and awarding smaller, incremental orders is advantageous to the agency. A typical example is issuance of task orders for inspection of buses, to match each bus build order.

Community Transit may make multiple master contract awards under a Qualified Vendor List program to provide for a faster contracting process. This process typically entails a two-step procurement, where vendors are prequalified in step 1 and step 2 is where competitive offers are obtained for a particular task. In the solicitation documents, prospective bidders will be advised of the procedures that will be used in issuing task orders to the contractors selected for award, including the criteria that will be used to provide the selected contractors with a fair opportunity to be considered for each task order issued. The criteria may include such items as past performance on earlier tasks or task orders issued under the contract, quality of deliverables, timeliness of deliveries, and other factors considered relevant by Community Transit. It is important that price or cost be one of the selection factors considered for each task order awarded, unless the task order is for A&E work in which case qualifications based selection process shall be followed ([Section 11](#)).

### 22.2. Exceptions

Multiple awards generally should not be allowed when:

1. More favorable terms will be provided if a single award is made,
2. The cost of administering multiple contracts outweighs any potential benefits from making multiple awards, and
3. Tasks likely to be ordered are so integrally related that only a single contractor can reasonably perform the work.

## Section 23. [Multi-Year Contracts](#)

### 23.1. Provisions

Community Transit may enter into multi-year contracts provided that:

1. The term of the contract including optional years does not exceed five years, unless approved by Procurement and Contracts Manager/Procurement Supervisor for reasons of business sense, market practice and program requirements; and
2. The goods or services contracted for are included in the annual budget for the initial contract period.

### 23.2. CEO or Designee Contract Awards

The CEO or designee is authorized to award contracts for goods and services on a multi-year contract basis when the cost per year for such goods or services over the term of the contract

including optional years is expected at the time of contract award to be equal or less than the Board of Directors award threshold. [Exhibit E – Community Transit Board Resolution No. 01-17](#).

### 23.3. Board of Directors Contract Awards

The Board of Directors shall award multi-year contracts when the cost per contract year for such goods or services over the term of the contract including optional years is expected to exceed the Board of Directors award threshold at time of contract award.

### 23.4. Multi-year Contract Amendments

The CEO or designee is authorized to approve subsequent contract amendments related to all multi-year contracts provided the amount of the contract amendment does not exceed the amount provided for in the annual budget for such goods or services. In the event the contract amendment exceeds the amount provided for in the annual budget, the Board of Directors shall approve the contract amendment.

## Section 24. [Revenue Contracts](#)

A revenue contract is a contract in which Community Transit provides access to public transportation assets for the primary purpose of either producing revenues in connection with an activity related to public transportation, or creating business opportunities with the use of Community Transit and/or FTA (or applicable federal agency) -assisted property. Revenue contracts will be awarded using the threshold in [Section 6](#), Table 1.

Typical examples of revenue contracts are advertising on buses, repetitive sale of used oil for recycling etc.

## Section 25. [Term of Contracts](#)

### 25.1. Period of Performance

The time of delivery or performance is an essential contract element and shall be clearly stated in solicitations. Procurement staff shall ensure that delivery or performance schedules are realistic and meet the requirements of the procurement. Periodic re-solicitation of contracts preserves competition and keeps prices competitive. Without periodic competition, the vendor or supplier will not have the pressures of a competitive market to keep prices reasonable or an incentive to maintain satisfactory performance.

Community Transit may form a contract for goods and services for a period based on business need and consistent with the intent of the “full and open competition” principle, as indicated in RCW and FTA Circular 4220.1.F or revisions. Community Transit will contract only for its current and reasonably expected business needs.

### 25.2. Term of Contracts

In general, no contract shall exceed five-years. However, there may be circumstances where it is in the best interest of Community Transit to establish contracts for a longer period of time, i.e. system upgrades, maintenance and repairs to Community Transit’s radio sites, commuter bus

services, etc. Any contract period that would exceed the standard five-year period shall be approved by the Procurement and Contracts Manager/Procurement Supervisor on a case-by-case basis.

For rolling stock and replacement parts funded by FTA or applicable federal agency, Community Transit will not enter into contracts with a period of performance exceeding five years inclusive of options without prior written FTA or applicable federal agency approval.

## Section 26. [Change Orders and Modifications](#)

### 26.1. **General**

A "change order" means any contract action that calls for a change in the contract requirements as provided below.

The approving authority for change orders shall be determined using the accumulative value of the original contract and all change orders, without exceeding the amount budgeted. See [Exhibit A – Delegating Purchase and Other Authority](#) (or as revised) and [Exhibit E – Community Transit Board Resolution No. 01-17](#).

### 26.2. **Authority of Board of Directors (Contracts over the CEO award threshold)**

All modifications and/or additions to contracts shall be conducted in the following manner:

1. The Board of Directors shall approve individual change orders to the project when the accumulated value of the original contract and all change orders would exceed the most recent approved project budget.
2. The monetary amount shall be based on the responsible estimate of all costs impacted by the change and other costs attributable to the addition.

### 26.3. **Authority of the CEO**

1. The CEO or designee shall have the authority to approve Change Orders in accordance with the contract terms and conditions of the project, provided that accumulated value of the original contract and all such Change Orders shall not increase the total project cost in excess of the most recent approved budget for the project.
2. The CEO or designee shall be responsible for prescribing and issuing policies and procedures for authorizing employees under their authority to exercise the authority that has been given to the CEO herein, up to including the sums authorized by the Board approved budget.

### 26.4. **Change Orders**

A written document signed by an authorized Community Transit member, in accordance with Community Transit's Signature Authority Policy, POL-FN-3000, "Delegating Purchase and Other Authority", attached as [Exhibit A – Delegating Purchase and Other Authority](#) (or as revised), which directs the Contractor to make a change pursuant to the Changes Clause. The change order clause authorizes Community Transit to exercise its contractual right to issue a change

order. A modification is issued when the nature of work is outside the scope of contract (i.e. unforeseen subsurface conditions, acts of god, emergency, errors, or omissions, constructive change). Procurement staff are responsible for ensuring that appropriate change clauses are included and enforced in all third-party solicitations and contracts. Change Orders and Modifications to contracts must be signed by Community Transit and the Contractor.

### **26.4.1. Change Order Administration**

Community Transit may execute change orders to its contracts. Change Order administration requires that Procurement staff make an in-scope determination for the desired change work. A price reasonableness determination must be performed to ensure that the price for the changed work is equitable, fair and reasonable. The methodology and depth of analysis is influenced by the facts surrounding the particular procurement situation. Procurement manages the Change Order process.

The following procedures apply to administering and managing change management and activities related to change orders, change notice, progress payment, and approval:

#### **26.4.1.1. Independent Government Cost Estimate (for Formal Procurements only)**

The Independent Government Cost Estimate (IGCE) is a price or cost estimate developed by the Project Manager (PM), based on the project requirements (i.e., scope of work or other specifications or change order condition), without the influence of potential contractors' efforts, prior to receiving contractor proposals.

Required: FTA Circular 4220 requires a cost or price analysis for every procurement action above the Simplified Acquisition Threshold, including change orders. The starting point for the analysis is an independent cost estimate. Prior to receiving a change proposal, Community Transit shall independently estimate the cost of performing the work. The IGCE can be used as a basis of comparison for evaluating the proposed price received.

#### **26.4.1.2. Change Order Cost/Price Analysis**

The Common Grant Rules require a cost/price analysis in connection with all change orders for procurements above the Simplified Acquisition Threshold. The method and degree of cost/price analysis depends on the facts and circumstances surrounding each contract action. If the original contract contains only a lump sum price, additional cost and pricing data must be requested to perform a cost/price analysis.

Community Transit shall perform a cost analysis when a contractor is requested to submit detailed cost elements (that is, labor hours, overhead, materials, and so forth) of the change order cost. Changes in scope do not always result in increased costs. Elimination or reduction of contract work may result in a decrease in the contract price. Regardless of the direction of the price change, these modifications require cost analysis using the cost principles to determine that the price change is fair and reasonable.

The following references provide guidance in preparing cost or price analysis:

1. FTA's "Best Practices Procurement Manual"
2. Pricing Guide for FTA Grantees
3. FAR Part 31, Contract Cost Principles and Procedures

### 26.4.2. Change Order Conditions

Community Transit shall ensure that none of the following conditions are present when preparing, processing, reviewing, or approving change orders:

1. Change order work is outside the original work scope.
2. An IGCE is prepared after receipt of a change proposal or based on recommendation of the affected contractor.
3. A cost analysis is performed without detailed or sufficient cost elements.
4. A profit or fee is not analyzed commensurate with work complexity, performance or contractual risk, contractor's investment, amount of subcontracting, past performance data, or market place rates.
5. Fully loaded rates or Not to Exceed (NTE) contract prices are not broken down into requisite cost elements (i.e., labor, overhead, General & Administrative (G&A), material, equipment, profit or fee) when cost analysis is required.
6. Negotiations with contractors are not documented (\*if negotiation is not necessary, the file should be documented to the analysis that led to that conclusion).
7. If a lump sum price is compared, a price analysis is based on contract prices that were obsolete or established non-competitively without appropriate cost analysis.
8. A change order is approved for an option that cannot be exercised unilaterally.
9. A proper option evaluation (e.g. price/cost analysis) was not performed and documented during the pre-award stage. The need to perform a pre-award cost/price analysis should not be circumvented through the use of post-award sole source justification.
10. No documentation is available to determine that the option price is better than prices available in the market, or that when Community Transit intends to exercise the option, the option is not advantageous.

## Section 27. [Notice and Advertising](#)

### 27.1. Notice and Advertising Requirements

1. For non-federally funded procurement:
  - .1 Procurements covered by RCW 39.04 (Public Works) require issuance of an advertisement. The advertisement should be posted on the Community Transit

controlled webpage and/or other suitable websites. Newspaper advertisements may be issued after approval by the Procurement Manager.

Per RCW 39.04.020, when any emergency shall require the immediate execution of such public work, upon a finding of the existence of such emergency by the Agency, publication of description and estimate may be made within 7 days after the commencement of the work, in the at least once in The Everett Herald, our legal newspaper of record.

.II All other non-federally funded procurements do not require a notice or advertisement. A notice and/or advertisement may be issued for programmatic needs.

2. For federally funded procurements – procurements over the Simplified Acquisition Threshold must be advertised on the Community Transit controlled webpage and/or other suitable websites and/or newspapers to obtain full and open competition. An advertisement may be issued for procurements below the simplified procurement thresholds for programmatic needs.
3. The advertisement may be published in Community Transit’s legal paper of record (currently The Everett Herald). The notice may also be placed elsewhere at the discretion of Community Transit.
4. The advertisement must be emailed to ensure timely and accurate publication, requesting a one-time publication as soon as the solicitation is being made public. The newspaper will send the Affidavit of Publication as soon as the advertisement has appeared in the paper as proof of publication.
5. The Affidavit of Publication must be filed with the bid or proposal packet.

### 27.2. Advertising Sources

1. Other local newspapers, such as Seattle Daily Journal of Commerce, may be selected based on the geographic location of the project.
2. In addition, every solicitation issued by Procurement should be posted on Community Transit’s website.
3. Posting may be made on other suitable websites (e.g. Washington State Department of Enterprise Services WEBS).
4. Advertising may also be run in business journals or trade journals (e.g., APTA), when appropriate.

### 27.3. Advertising Content

Notices and advertisements are normally drafted by Procurement staff. At a minimum, notices and advertisements must include solicitation number, title, submittal deadline, and web address for download of solicitation documents.

## Section 28. Agenda Item Requests for Board Approval

All procurements in excess of the Chief Executive Officers delegated authority, per Board Resolutions 05-11 and 01-17 must be awarded by the Board of Directors.

### 28.1. **Schedule and Distribution - Committee**

1. The Project Manager and assigned Procurement staff will prepare the award memo for the Board committee.
2. All committee award memos will be reviewed by the Procurement & Contracts Manager and Director of Administration prior to them being submitted to the committee liaison by the due date for agenda items; typically this is ten (10) days prior to the committee date. See Community Transit web page [www.communitytransit.org/about/meetings](http://www.communitytransit.org/about/meetings) for committee meeting dates.
3. Depending on committee, the Project Manager or designee may be asked to present the agenda item to the committee members and answer questions.
4. The Procurement & Contracts Manager and/or Procurement staff attend the committee meetings to be available to answer questions of the committee members.
5. Following the committee meeting, the committee liaison will prepare the appropriate memo for the Board of Directors and provide the memo electronically to the Executive Department liaison to the Board.
6. A copy of the committee meeting memo with the agenda item will be filed in the appropriate procurement file.

### 28.2. **Schedule and Distribution – Board of Directors Meeting**

1. If no material changes were made to the Award Memo, the memo is forwarded by the committee liaison to the Executive Department liaison to the Board.
2. If material changes were made by the committee, Procurement staff and Project Manager(s) will revise the memo.
3. If an “Action Item,” the Director, Project Manager or designee will present their item to the Board and answer questions.
4. The Procurement & Contracts Manager and/or Procurement staff attend the Board meetings to be available to answer questions of the board members.
5. Following the Board meeting, Procurement staff will prepare the Intent to Award letter to the vendor who was awarded the contract, if not already issued before going to the Board.
6. The contract award will also be posted on Community Transit’s website.
7. A copy of the Board agenda and Board memo will be filed in the procurement file.



## 28.3. Composing Committee and Board Agenda Memos

Memos are drafted by Procurement staff and the appropriate Project Manager and should follow the agency writing conventions established.

## Section 29. [Requests for Temporary Personnel](#)

### 29.1. Preparing Requests for Temporary Personnel

1. The Human Resources Manager is responsible for temporary staffing contracts. Community Transit establishes contracts for temporary personnel with several temporary staffing agencies. Temporary personnel must be requested through these contracts by using a task order.
2. The task order shall be filed in the appropriate vendor contract file.
3. If the temporary staffing agencies currently under contract cannot provide the temporary staff requested, Human Resources may go outside of the existing contracts. At that time, a sole source justification explaining the circumstance why the existing contracts were not used must be submitted in accordance with the Sole Source Approval Process by the requestor.

### 29.2. Consultant and Professional Services

Unless a Qualified Vendor List (QVL) is being used, Consultant and Professional Services will be acquired through a Request for Proposal or Qualifications. Please follow [Section 10](#).

## Section 30. [Purchase of Used Equipment](#)

There may be situations when Community Transit desires to purchase used equipment, e.g. used vehicles, without going through the complete solicitation process. In this type of situation:

1. The user shall develop specifications, identifying required and/or desired features.
2. Procurement staff shall work with the user department to identify possible sources.
3. Once a seller or sellers have been found who can provide the equipment, three quotes will be obtained, if possible.
4. Fair and reasonable price determination shall be made using Kelly Blue Book or other trade specific resources.
5. If only one source is available, the procurement will be handled as a sole source. (See [Section 19](#)).

## Section 31. [Purchase of "Rolling Stock"](#)

Community Transit may purchase rolling stock using the ITB or RFP process, a State of Washington contract that is covered by an intergovernmental agreement with the State, or by piggybacking off another transit entity's contract, following appropriate procedures required by



the FTA (or applicable federal agency), if applicable. See [Exhibit C – Applicability of Third Party Contract Provisions Matrix and Required Certifications, Reports, and Forms](#).

A contract for rolling stock shall not exceed five (5) years, if FTA funded.

### 31.1. Pre-Award & Post Delivery

Pre-Award: When purchase is funded by the FTA, a pre-award audit must be completed before entering into a formal contract for the purchase of rolling stock.

Post Delivery: A post-delivery audit must be completed before title to the rolling stock is transferred to the recipient.

### 31.2. Options

Community Transit follows the FTA's policy on contract options as stated in the FTA Circular 4220.1F (or revisions) and its clarifications, if FTA funds are applied.

If locally funded, the agency will use its discretion for business advantages.

### 31.3. Buy America Thresholds

Community Transit follows the FTA's policy on Buy America as stated in the FAST ACT, FTA Circular 4220.1F (or revisions) and its subject matter guidance, if federally funded.

When procuring rolling stock, and rolling stock prototypes, the cost of the components and subcomponents produced in the U.S. must be more than 70 percent for FY2020 and beyond.

If locally funded, Buy America is not applicable.

## Section 32. [Solicitations with Trade-In of Used Equipment](#)

There may be occasions when Community Transit elects to trade-in used equipment when purchasing new equipment. The call for bids or proposals on the new equipment shall include information about the sale or trade-in of used equipment. Disposal of used equipment must follow Board Resolutions for disposal of property.

## Section 33. [Advance Payments / Progress Payments](#)

### 33.1. Advance Payments

Community Transit will not make advance payments unless it is a customary business practice for the services/commodities being procured.

The FTA does not authorize and will not participate in funding payments to a contractor for FTA funded projects prior to the incurrence of costs by the contractor unless prior written concurrence is obtained from FTA. However, FTA recognizes that advance payments are typically required for, but are not limited to, public utility connections and services, rent, tuition, insurance premiums, subscriptions to publications, software licenses, construction mobilization costs, transportation, hotel reservations, and conference and convention registrations.

Accordingly, the recipient may use FTA assistance to support or reimburse the costs of such acquisitions. FTA concurrence is required only when such advance payment or payments customarily required in the marketplace exceed \$100,000 (or as periodically revised by FTA).

### 33.2. Progress Payments

Community Transit may use progress payments if those payments are only made to the contractor for costs incurred in the performance of the contract, and that Community Transit obtains adequate security for such payments.

Adequate security may include taking title, letter of credit, or equivalent means to protect Community Transit's interest in the progress payment. See FTA Circular 4220.1.F for more information. Adequate security should reflect the practical realities of different procurement scenarios and factual circumstances.

FTA acknowledges the practical reality that taking title to work in progress may not be desirable in some circumstances. Community Transit should always consider the costs associated with providing security (for example, the recipient may need to acquire bonds or letters of credit in the commercial marketplace) and the impact of those costs on the contract price, as well as the consequences of incomplete performance. Sufficient documentation is required to demonstrate completion of the amount of work for which progress payments are made.

The common grant rules require that any progress payments for construction contracts be made on a percentage of completion method described therein. The recipient, however, may not make progress payments for other than construction contracts based on this percentage method.

## Section 34. [Liquidated Damages, Breach, Termination](#)

### 34.1. Liquidated Damages

Liquidated damages may be used if Community Transit reasonably expects to suffer damages through delayed contract completion, and the extent or amount of such damages would be difficult or impossible to determine. Liquidated damages are not punitive. The rate of the liquidated damages must be specified in the contract. If federally funded, any liquidated damages recovered shall be credited to the project account involved unless FTA permits otherwise. The procurement file shall include documentation as to the methodology used to calculate liquidated damages.

### 34.2. Violation or Breach

Community Transit contracts must include administrative, contractual, or legal remedies for violations or breach of the contract by a contractor.

### 34.3. Termination

Community Transit may terminate a contract, in whole or in part, at any time through written notice to a Contractor. The Contractor shall promptly cease work and submit a termination

claim to Community Transit within 10 business days or another reasonable time period as Community Transit agrees.

The Contractor shall be paid for completed or partially completed work, the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract up to the time of termination. If the Contractor has any property in its possession belonging to Community Transit, the Contractor will account for same and dispose of it in the manner Community Transit directs. Community Transit will negotiate a fair and reasonable settlement claim. Legal counsel will be consulted in all termination cases.

The following are the various types of termination that Community Transit may use:

### **34.3.1. Termination for Convenience**

Allows Community Transit to unilaterally end a contract at its discretion, in whole or in part, for the best interest of the agency, and with no reflection on the Contractor's performance.

Contracts are usually terminated for convenience when Community Transit no longer has a need for the service or products as they are specified in the contract, or when it is not possible to substantiate that the contractor's performance is poor enough to terminate for cause.

### **34.3.2. Termination for Non-appropriation**

Termination for Non-appropriation is essentially a termination for convenience that occurs when expected or actual funding is withdrawn, reduced or limited in any way prior to the expiration date established for a contract.

### **34.3.3. Termination for Default, Cause or Breach**

Community Transit may cancel a contract, in whole or in part, due to the following: (1) the failure of the Contractor to perform satisfactorily; (2) the Contractor violates or failures to fulfill the terms of the contract. Community Transit may terminate for default after all other measures "to cure" or improve contractor performance have been exhausted. The Contractor shall be liable for damages to Community Transit.

### **34.3.4. Cost Analysis at the time of contract termination**

If a contract is contemplated for termination, a cost analysis should be performed in order to negotiate the final amount of the termination claim.

## **Section 35. [Options](#)**

### **35.1. Definition**

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

### 35.1.1. Price

Community Transit may not exercise the option unless it has determined that the option price is better than prices available in the market, or that when it intends to exercise the option, the option is more advantageous.

### 35.1.2. Awards

Options should be evaluated at the time of original award. Failure to evaluate Options before awarding the underlying Contract will result in a sole source action.

### 35.2. Negotiating a Lower Price Option Price

Exercising an option after Community Transit has negotiated a lower or higher price will also result in a sole source award unless that price can be reasonably determined from the terms of the original contract, or that price results from Federal or State actions that can be reliably measured, such as changes in Federal or State prevailing labor rates, for example.

## Section 36. [Purchases by Other Public Agencies](#)

The CEO or designee is authorized to negotiate and execute cooperative purchase agreements with public agencies, following established procedures which permit other public agencies to purchase supplies, equipment or services off of Community Transit's contracts. The public agency shall assume full responsibility for such purchases by contracting directly with the vendor (piggybacking off Community Transit's contract). Per RCW 39.34, such purchases are subject to the terms of a cooperative purchase agreement negotiated between Community Transit and the public agency, and shall be made under the terms and conditions of the contract.

## Section 37. [Cooperative Purchasing \(Interlocal Agreements\)](#)

### 37.1. State Regulations

Per RCW 39.34, Community Transit may elect to utilize a contract of another state or local governmental entity instead of going through the solicitation process itself. This procedure is also called "piggybacking" or "cooperative purchasing." Before contracts from other agencies can be used, Procurement staff must verify that the contract was established using the competitive procurement process with terms and conditions acceptable to Community Transit.

Effective June 7, 2006, RCW 39.34.040 was amended to permit a public agency to list interlocal agreements on its website in lieu of having the agreement filed with the county auditor's office.

### 37.2. General Services Administration

The General Services Administration (GSA) currently authorizes state & local governments to use Schedule 70 (Information Technology) and Schedule 84 (Security, Fire, & Law Enforcement) contracts. Only during times of a declared disaster may other specifically identified GSA contracts be used. It is not necessary to establish an Interlocal Agreement with GSA, however

ordering must be done in accordance with the instructions in each schedule. Other schedules may be authorized for use at a later time.

### 37.3. **Compliance**

Procurement-related interlocal agreements are posted on Community Transit's website to comply with RCW 39.34.040:

<https://www.communitytransit.org/about/procurement/interlocalagreementnotices>

### 37.4. **RCW based contract authority:**

Subject to Board resolutions, policies and procedures, and other requirements of the Procurement Manual, Community Transit can contract with any private person or corporation as allowed by RCW 36.57A.080. This authority does not extend to purchases covered by RCW Chapter 39 (public works) or any procurement covered by federal grants.

Based on the above, Community Transit can utilize valid contracts of other governments that were competitively procured, even if such contracts do not contain piggyback clause, provided the vendor is willing to perform on the same or substantially similar terms. These awards will retain the nature of original procurement (RFP/ITB/Sole Source etc.); the contract type (Fixed Price/Cost Reimbursable/T&M etc.) and basis of award (Lowest offer/Best Value/ Sole Source etc.) of the original award; and follow the procurement thresholds of Community Transit.

## Section 38. Joint Procurements

Community Transit may decide to jointly procure goods and services with other entities if it is in the best interest of Community Transit to do so. When obtaining goods or services in this manner, Procurement staff must ensure that all federal, state, or local requirements, required clauses, and certifications, as applicable, are properly followed and included in the resulting joint solicitation and contract documents. Participating agencies issue their own contracts, following their individual processes and procedures.

## Section 39. Protest and Appeal Procedures

Protest procedures are available at: [www.communitytransit.org/procurement](http://www.communitytransit.org/procurement)

## Section 40. Other Federally Funded Procurement Requirements

Whenever a procurement of goods or services is funded by federal grant funds, such procurement shall comply with the requirements outlined in FTA Circular 4220.1F (<https://www.transit.dot.gov/regulations-and-guidance/fta-circulars/final-circulars>) and future revisions.

Before proceeding with a procurement funded by Federal grant funds, Procurement staff will review FTA or applicable federal agency procurement requirements such as those described in the latest FTA Circular 4220 to determine what requirements apply to the procurement.

The following refers to FTA requirements not found elsewhere in this manual.

## 40.1. FTA Required Clauses

Applicable FTA requirements must be included in each federally funded solicitation, contract, subagreement, lease, third party contract or other binding document. A checklist may be found in Circular 4220.1F or revisions. (See [Exhibit C – Applicability of Third Party Contract Provisions Matrix](#)).

## 40.2. Written Record of Procurement History

For federally funded procurements a written record of procurement history (procurement summary memo) shall be included with the documentation for all procurements. The extent of documentation shall vary depending on the complexity of the procurement. At a minimum, the following information shall be included:

1. Rationale for the method of procurement
2. Selection of contract type
3. Reasons for contractor selection or rejection
4. Basis for the contract price
5. Other reasonable documentation, pertinent to the solicitation and contract.

## 40.3. Time and Materials Type Contracts – Restricted

FTA permits Time and Material type contracts only when the following applies:

1. After determining that no other contract type is suitable; and
2. If the contract specifies a ceiling price that the contract may not exceed except at its own risk.

Procurement staff must document the file with a determination that no other type of contract, such as cost-plus-fixed-fee, firm fixed price, etc. is suitable for the contract being awarded.

## 40.4. Cost Plus Percentage of Cost Contracts – Prohibited

FTA expressly prohibits the use of cost plus a percentage of cost (CPPC) and cost plus a percentage of construction cost methods of contracting.

## 40.5. Leases

When using federal funds, FTA requires that a lease versus purchase analysis be completed to determine the most efficient and economic purchase.

## 40.6. Tag-Ons (Cardinal Change) – Prohibited

Tag-on is defined as a significant revision of work (supplies, equipment or services) that causes a major deviation from the original purpose of the work or the intended method (contractor's ways and means). Such revision is so extensive, significant or cumulative that, in effect, the

contractor is required to perform very different work from what is described in the original contract; such work is beyond the scope of the original contract and amounts to a Cardinal Change. Tag-ons are prohibited and could be cause for revocation of grant funding.

### Section 41. Cost and Price Analysis –Formal Procurements Only

Every contract award must include a determination of reasonableness of price. For Formal Procurements a Cost/Price analysis must be performed.

#### 41.1. **Cost and Price Analysis Definition**

**Price Analysis** – The process of examining and evaluating a prospective price without performing cost analysis; that is, without evaluating the separate cost elements and profit of the offeror included in that price. The end result of price analysis is to ensure fair and reasonable pricing of a product of service. Price analysis may include a variety of techniques to compare proposed prices.

**Cost Analysis** – The review and evaluation of cost data for the purpose of arriving at costs actually incurred or estimates of costs to be incurred. May include cost benefit analysis or total cost of ownership. Cost analysis should be employed when price analysis is impractical or does not allow a purchaser to reach the conclusion that a price is fair and reasonable.

#### 41.2. **General Information**

A price or cost analysis must be performed for every formal procurement action. For federally funded procurements, a cost analysis must be performed when only one response is received and for every modification to the contract. The degree of analysis is dependent on the facts of the particular procurement but as a starting point, the initiating department must prepare an independent government cost estimate before receiving bids or cost proposals. Community Transit may use the following resources as guidance in performing cost or price analysis:

1. FTA's "Best Practices Procurement Manual"
2. The National Transit Institute Course, "Cost or Price Analysis and Risk Assessment"
3. Pricing Guide for FTA Grantee, FTA website:  
<https://www.transit.dot.gov/funding/procurement/third-party-procurement/pricing-guide-fta-grantees>
4. FAR Part 31, Contract Cost Principles and Procedures

#### 41.3. **Cost Analysis**

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



hours, overhead, materials, etc.) of the estimated cost (i.e., professional consulting and architectural and engineering services contracts). A cost analysis includes verifying the proposed cost data, the projections of the data and the evaluation of specific elements of cost and profit.

### **41.3.1. Cost Analysis for Competitive Proposal**

This method is most often used to contract for professional, consulting, and architect/engineering (A/E) services (See 24 CFR 85.36(d)(3) for a definition). To determine the reasonableness of proposed costs, Procurement staff shall obtain cost breakdowns from the contractor showing all the elements of their proposed total costs and perform a cost analysis of each proposal.

### **41.3.2. Awarding Contract using Competitive Proposal**

When Procurement staff proposes awarding a contract using the competitive proposal method, the type of contract (e.g., firm fixed-price or cost-reimbursement) does not affect the requirement for a cost analysis. For example, if a firm fixed-price contract via the competitive proposal method is intended, Procurement staff must analyze all of the proposed costs contained in each contractor price. However, Procurement staff is not required to negotiate each individual cost element in arriving at an agreement on total price. The final price Procurement staff negotiates with the contractor on a fixed-price contract normally reflects agreement only on the total price. Therefore, the overall objective should be to negotiate total prices that are fair and reasonable.

### **41.3.3. "Open Ended Contracts"**

In certain cases, the contract may specify separately priced items. This is commonly done in indefinite-delivery (e.g., indefinite-quantity, or "open ended") contracts. Under these contracts, staff orders pre-priced items on an as-needed basis, up to a stated maximum quantity. For these contracts, agreement must be reached on each item's price before award and the prices included in the final contract document.

### **41.3.4. Cost Analysis for Noncompetitive Proposals**

These are sometimes called sole source contracts and are different from single bids. No competition is present, and usually, there is no market to help set the price or estimated cost. Since there is no price competition to indicate if the price or estimated cost is reasonable, staff must obtain a breakdown of the proposed costs and ensure a cost analysis is performed. The cost analysis shall be performed for all change order situations, as each change order likely will be unique (i.e. differing subsurface or site conditions, design errors and omissions, etc).

### **41.3.5. Cost Analysis for Construction and Construction Management Contracts**

This includes all contracts and contract modifications negotiated based on cost for construction management or construction, alteration or repair of buildings, bridges, roads, or other kinds of real property. It does not include contracts for equipment, or other kinds of personal property. Construction contracts awarded using sealed bidding do not require cost analysis (see



Section 41 Price Analysis for Sealed Bidding or Competitive Quotes), but construction contracts awarded using any method other than sealed bidding, and all modifications to construction contracts require cost analysis.

#### 41.4. Price Analysis

A price analysis may be used in all other instances to determine the reasonableness of the proposed contract price. Procurement staff shall annotate a finding of fair and reasonable pricing and state the most common reasons why this was so, such as catalog or market price offered in substantial quantities to the general public, regulated price, or a comparison with recent prices for similar goods and services.

##### 41.4.1. Price Analysis for Micro-Purchases (Federally Funded)

For federally funded micro-purchases, the user department will simply annotate how it made its price fairness and reasonableness determination (e.g. professional market experience, market trend, previous purchase, and catalog price). FTA does not require the rationale for the procurement method used, selection of contract type, or reasons for contractor selection or rejection, required of the purchase exceeding the Micro-Purchase threshold.

##### 41.4.2. Price Analysis for Sealed Bidding or Competitive Quotes

As the preferred method for contracting of supplies, equipment and construction, the competitive pricing forces of the marketplace determine the reasonableness of the low price obtained through sealed bidding. Nevertheless, Procurement staff should always compare the Independent Government Cost Estimate to the low competitive bid received. In the event they are significantly different, Procurement staff will need to examine to verify that either the estimate or the market price is valid. Otherwise, no further price or cost analysis is required under sealed bidding.

#### 41.5. Profit

FTA expects Community Transit to negotiate profit as a separate element of the cost for each contract in which there has been no price competition, and in all contracting situations in which the recipient performs or acquires a cost analysis.

#### 41.6. Eligible Costs

Property and services must be eligible for Federal participation under the standards of the Federal cost principles (OMB Circular A-87, OMB Circular A-21, OMB Circular A-122, or FAR Part 31). All grant-funded contracts awarded by Community Transit must contain a clause stating that the allowability of costs incurred will be determined in accordance with the cost principles in FAR Part 31.2 (commercial contractors).

### Section 42. Design-Build

#### 42.1. **FTA or applicable federal agency Requirement**

The design-build project delivery method provides design and construction under a single contract. In general, it may have an advantage over the traditional two-contract design-bid-build method. For FTA funded projects, see FTA Circular 4220.1.F for more information. If funds are provided by another federal agency, the directives of that federal agency will control.

The method of procurement is determined by evaluating the following:

1. If construction is determined predominant, sealed bids or competitive negotiations procurement methods shall apply.
2. If design is found predominant, the Brooks Act shall be followed.
3. The decision to use Design Build project delivery method should be made after documenting facts that support a finding that the construction under the Design-Build method is likely to result in substantial cost savings, higher quality, reduced errors, or other benefits to Community Transit.

#### 42.2. **RCW Requirement**

According to RCW 39.10.270 or 39.10.280, Community Transit may utilize the design-build procedure for public works projects in which the total project cost is over \$10 million and where:

1. The design and construction activities, technologies, or schedule to be used are highly specialized and a design-build approach is critical in developing the construction methodology or implementing the proposed technology; or
2. The project design is repetitive in nature and is an incidental part of the installation or construction; or
3. Regular interaction with and feedback from facilities users and operators during design is not critical to an effective facility design.

### Section 43. Contract Administration Responsibilities (Project Manager and Procurement Staff)

The goal of contract administration is to receive ordered contract deliverables in an economic, efficient, effective, timely, and compliant manner. Successful contract completion requires skilled professionals, cross-functional team support, collaboration, transparency, and timely decision making. As such, the contract administration functions are shared responsibility of all project owners/Project Managers and supporting organizations.

The Project Manager assumes responsibility for contract administration with assistance from the Procurement Division unless a separate Contract Administrator has been assigned to a specific project/contract. Procurement will manage the contract administration process by: 1) providing advice to the Project Manager, (2) ensuring required procurement records are maintained, (3)

enforcing Community Transit Procurement Policy, and (4) assisting with problem solving as it relates to procurement and contracts.

The user department shall name a Project Manager (PM) who is responsible to ensure contract performance according to contract terms and conditions and specifications.

### 43.1. **Contract Development**

The Project Manager/Contract Administrator shall work with Procurement to ensure that all contracts executed by Community Transit include all terms and conditions necessary to comply with local, state and federal laws and regulations and to allow for effective contract administration.

The Procurement Division manages the procurement/contracting process up to and including contract award and any changes to the contract after award. The PM is responsible for maintaining the project implementation files that shall include all documentation regarding the administration of the contract, from inception to completion.

Procurement records shall contain, but not be limited to, the following:

1. Original Solicitation, consisting of Specifications/Scope of Work, and Terms & Conditions, including FTA provisions, if applicable
2. Pre-Bid/Pre-award activity, correspondence and proof of advertisement
3. Vendor List
4. Bids/proposals received
5. Bid analysis/evaluation process/scoring documents
6. Explanation of the basis for the selection of the contractor
7. Statement that the price is fair and reasonable, if applicable
8. Notice of Intent to award
9. Board of Directors award, if applicable (see [Section 28](#))
10. Executed sound and complete contract
11. Bonding/insurance documentation
12. Notice to Proceed
13. Modifications/changes to contract
14. Documentation relating to all close out activity
15. A document of the contract's activity (procurement history)
16. Any other FTA or applicable federal agency requirements, as applicable

## 43.2. Roles and Responsibilities

Immediately after full execution and award of the contract, the technical administration of the contract becomes the responsibility of the PM with the Procurement staff responsible for all contractual matters. Procurement staff and the PM shall establish the methods and procedures to be utilized in the performance of the contract.

Although responsibility for contract administration lies with the PM of the individual department, the Procurement division is responsible for the following:

1. Advising the PM regarding all contractual matters.
2. Coordinating proposed changes or modifications to the contract and assessing any change impact to the contract or funding involved.
3. Preparing change orders with technical assistance from the PM who will supply necessary supporting backup documents, reflecting the necessity for the change.
4. Assisting with resolution of invoice discrepancies.
5. Ensuring the master contract files are maintained.
6. Attending project meetings with contractors, as warranted.
7. Preparing agency closeout documents for construction projects and assisting PM with notifications for closeout to the appropriate committees and Board of Directors, if applicable, based on total project dollar amount.
8. Managing and conducting contract closeout.
9. Obtaining information/verification of DBE Participation.

It is the responsibility of the designated PM to monitor the work quality and progress throughout the duration of the contract.

Generally the statement of work outlines the specific tasks, milestones and review procedures which will vary depending on the individual project. The PM will provide technical direction to the contractor.

The PM has a continuing responsibility to monitor the contractor's work progress. The monitoring requirements will vary with each contract until completion, and the finished product is accepted by Community Transit. In addition, the PM is responsible for monitoring warranty agreements and claims.

The following tasks summarize the responsibilities to be performed by the designated PM:

1. Assuring that contracts contain performance standards and schedules that may be monitored on a periodic basis for compliance and adherence to the contract.
2. Assuring the contractor performs as described in the statement of work or scope of services.

3. Establishing and maintaining a process to routinely monitor the quality of the contractor's work. Written reports should be prepared and Community Transit management and Procurement staff should be informed of significant deviations as they may occur and corrective actions proposed.
4. Initiating all contract amendments and change orders and working with Procurement staff for finalization and execution.
5. Reviewing all invoices for accuracy and content before issuing a final approval for payment in accordance with contract terms and conditions to include verification of milestones met or percent complete and accuracy of rates charged.
6. Maintaining project implementation files.
7. Ensuring and documenting compliance of all legal requirements of the project.
8. Ensuring formal closeout of the project, in accordance with the contract, has occurred and is documented prior to final payment, including receipt of as-built drawings, lien releases, post award Buy America information, warranty information and manuals, etc.
9. Working with the Grants Division to comply with applicable grant fund administration requirements.

## Section 44. [Request for Information \(RFI\)](#)

### 44.1. **Request for Information Process**

A Request for Information (RFI) is a process where the purpose is to collect written information from suppliers about a product or service. This process assists with educating staff about the range of offerings in the market place prior to developing specifications and can also identify sources that provide the desired products or services.

Normally, this process is followed by a Request for Proposal. However, it is meant to be neither an announcement of procurement for supplier nor commitment to conduct the procurement of any products in the future.

Vendor participation in an RFI is strictly voluntary with no cost or obligation to be incurred by Community Transit. All submissions shall become Community Transit's property and will not be returned.

### 44.2. **When to use a Request for Information?**

It is a good idea to use an RFI when you need to gather more information to help make a decision on what steps to take next or in specification development.

### 44.3. **What to include in the RFI?**

The following are guidelines of information procurement will require from the Project Manager to develop a RFI:

1. Background

2. Purpose (Introduction and purpose of RFI)
3. Current process
4. General requirements and desired features
5. Information or documentation requirements from vendors

## Section 45. [Specifications/Scope of Work](#)

### 45.1. **Specifications**

Specifications are the description of the goods to be procured. The specifications shall be in sufficient detail to ensure the agency receives the quality and functionality needed. Specifications shall be written in terms which will permit full and open competition and which will meet Community Transit's minimum essential needs.

### 45.2. **Scope of Work**

A scope of work, rather than a specification, is used for service contracts. A scope of work defines the work required of a contractor, either to design the equipment to be procured or to provide services.

### 45.3. **Brand Name and "Or Equal" Products**

When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "Brand name or equal" description may be used as a means to define the performance or other salient characteristics of the materials to be procured. The special features of the named brand, which must be met by offerors, shall be clearly stated. When using "brand name or equal," a clause similar to the below should be used:

"Unless otherwise provided in the solicitation, or unless the name is followed by words indicating that no substitution is permitted, the reference to a certain brand name, make, model number, or manufacturer does not restrict the bidder to the specific brand, make, model number or manufacturer identified. The specific references to a brand is not intended to exclude other products but to convey the salient characteristics of function, performance, design requirements and quality of the item described. Comparable products of other manufacturers will be considered if proof of comparability is contained in or accompanies the bid. Any item which Community Transit, at its sole discretion, determines to be equal to that which is specified, considering quality, workmanship, economy of operation, and suitability for the process intended, will be accepted. **The award of the bid will be made to the lowest acceptable offer, on an item that Community Transit considers to be equal to the brand described within the specifications.**"

## Section 46. [Independent Government Cost Estimate](#)

An Independent Government Cost Estimate (IGCE) is required for Formal Procurements and all A&E and Public Works projects. Other procurements may be processed using budgetary or simple estimates.

### 46.1. Purpose of Independent Government Cost Estimate

An Independent Government Cost Estimate (IGCE) is an internal Government estimate, supported by factual or reasoned data and documentation, describing how much Community Transit could reasonably expect to pay for needed supplies, services, and construction. It serves as:

1. The basis for reserving funds for the procurement action;
2. A method for comparing cost or price proposed by offerors;
3. An objective basis for determining price reasonableness when only one offer is received in response to a solicitation; and
4. A means of detecting offeror buy-ins and identifying unbalanced prices.

Staff must ensure, through cost and/or price analysis, that the final price is fair and reasonable for all acquisitions. One of several techniques in performing price analysis is comparison of the proposed prices with an IGCE. Its primary objective is to provide the agency with an unbiased, realistic cost estimate for proposed supplies, services, and construction.

A well supported IGCE is a valuable tool for price negotiations, especially in the case of a single source acquisition. Clearly defined and supported cost elements such as labor, overhead, and travel enable Community Transit to make informed negotiation decisions. A well-reasoned IGCE helps Community Transit to verify completeness of offeror or contractor's cost proposals.

IGCE's are usually not required for procurements below the Simplified Acquisition Threshold (small purchases). Procurement staff may require an IGCE for purchases below the Simplified Acquisition Threshold for complex, unusual or non-standard purchases.

### 46.2. Documentation of Assumptions

Cost assumptions must always be fully documented. The basis of estimate and its supporting documentation captures how the estimate was built and should address the following:

1. How the estimate was calculated
  - a) What methodology was used, several approaches are listed below:
  - b) Historical cost
  - c) Software development models
  - d) Published price quotes
  - e) Average costs
  - f) Standard cost calculations based on planned approach
  - g) Industry experience/engineering estimates
2. What information, equations, rates, factors, tools, and models were used

3. Where information was obtained
4. If the current estimate is a follow-on to a previous project, how it compares with actual expenditures and past performance.

## Section 47. [Small and Disadvantaged Business Enterprises \(SBE/DBE\)](#)

### 47.1. **Objective**

Community Transit promotes and encourages small business participation, which include small, minority and women owned businesses in its procurement opportunities.

### 47.2. **Definition**

Disadvantaged Business Enterprise (DBE) is a 'for profit' small business concern that is at least 51 percent owned by one or more individuals who are socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals, and whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

### 47.3. **Policy**

Community Transit has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (DOT) 49 CFR Part 26. Community Transit has received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, Community Transit has signed an assurance that it will comply with 49 CFR Part 26 .

See Community Transit's website for the "Disadvantaged Business Enterprise (DBE) Program POLICY STATEMENT".

#### **47.3.1. DBE Procedures:**

SBE/DBE procedures, including the following, are located in the Procedures Manual:

1. Small & Disadvantaged Business Development Program
2. Procurement Planning – Unbundling & Overconcentration Analysis
3. Determining Appropriate Small Business and DBE Outreach Sessions
4. DBE - Solicitation Procedures – FTA Funded
5. Small Business Analysis and Goal Setting
6. Small Business Set-Aside Analysis
7. Broadcasting Bidding Opportunities to SBE/DBEs for FTA Funded Procurements

## Section 48. [Contract Closeout](#)

All contracts must be closed out upon completion of contract deliverables. Closeouts are managed depending on the type of goods/services procured. Contract closeout is the final stage of



Community Transit (CT) contracting process. It should begin when the contract has been determined substantially complete (physically completed), and is not finished until final payment is made, any disputes settled, and all administrative actions required by the RCW's and specific CT procedures accomplished.

CT Project Manager (PM) confirms that all work and receivables have been delivered/completed, the PM with assistance of Procurement staff are responsible for acquiring and compiling of closeout documents, requesting required releases and archiving of the contract.

1. For general goods and services contracts - Contract closeout requires the closing of the PO of any remaining funds.
2. For capital assets, such as buses – Contract closeout requires ensuring warranty period has been started OR warranty has ended.
3. For Public work – RCW 39.04 and 39.08 and other statutes apply and provide guidance. Closeout of Public Works and any other contracts where retainage and performance and payments bonds are only released upon a set of actions assumes an important role.

## Appendix - EXHIBITS

### A. Exhibit A – Delegating Purchase and Other Authority (or as revised)

See [POL-FIN-3000](#) for more information about purchase authority.

### B. Exhibit B – Board Committee Schedule

See Community Transit's website for the calendar of all upcoming committee meetings, currently located at: <https://www.communitytransit.org/about/meetings>

### C. Exhibit C – Applicability of Third Party Contract Provisions Matrix

#### APPLICABILITY OF THIRD-PARTY CONTRACT CLAUSES (excluding micro-purchases, except for construction contracts over \$2,000)

CLAUSE	TYPE OF PROCUREMENT				
	Professional Services/A&E	Operations/ Management/ Subrecipients	Rolling Stock Purchase	Construction	Materials & Supplies
No Federal government obligations to third parties by use of a disclaimer	All	All	All	All	All
Program fraud and false or fraudulent statements and related acts	All	All	All	All	All
Access to Records	All	All	All	All	All
Federal changes	All	All	All	All	All
Civil Rights (EEO, Title VI & ADA)	All	All	All	All	All
Incorporation of FTA or applicable federal agency Terms	All	All	All	All	All
Energy Conservation	All	All	All	All	All
Termination Provisions (not required of states)	>\$10,000	>\$10,000	>\$10,000	>\$10,000	>\$10,000
Debarment and Suspension	>\$25,000	>\$25,000	>\$25,000	>\$25,000	>\$25,000
Buy America			>\$150,000 (see Note)	>\$150,000 (see Note)	>\$150,000 (for steel, iron, manufactured)
Provisions for resolution of disputes, breaches, or other litigation	>\$100,000 (see Note)	>\$100,000 (see Note)	>\$100,000 (see Note)	>\$100,000 (see Note)	>\$100,000 (see Note)

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<i>Lobbying</i>	>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000
<i>Clean Air</i>	>\$150,000	>\$150,000	>\$150,000	>\$150,000	>\$150,000
<i>Clean Water</i>	>\$150,000	>\$150,000	>\$150,000	>\$150,000	>\$150,000
<i>Cargo Preference</i>			<i>Involving property that may be transported by ocean vessel</i>	<i>Involving property that may be transported by ocean vessel</i>	<i>Involving property that may be transported by ocean vessel</i>
<i>Fly America</i>	<i>Involving foreign transport or travel by air</i>	<i>Involving foreign transport or travel by air</i>	<i>Involving foreign transport or travel by</i>	<i>Involving foreign transport or travel by air</i>	<i>Involving foreign transport or travel</i>
<i>Davis Bacon Act</i>				>\$2,000	
<i>Copeland Anti-Kickback Act Section 1 Section 2</i>				<i>All</i> >\$2,000	
<i>Contract Work Hours &amp; Safety Standards Act</i>		>\$100,000	>\$100,000	>\$100,000	
<i>Bonding (not required of states)</i>				>\$150,000	
<i>Seismic Safety</i>	<i>A&amp;E for new buildings &amp; additions</i>			<i>New buildings &amp; additions</i>	
<i>Transit Employee Protective Arrangements</i>		<i>Transit operations funded with Section 5307, 5309, 5311 or 5316 funds</i>			
<i>Charter Service Operations</i>		<i>All</i>			
<i>School Bus Operations</i>		<i>All</i>			
<i>Drug and Alcohol Testing</i>		<i>Transit operations funded with Section 5307, 5309 or 5311 funds</i>			

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Patent Rights	Research & development				
Rights in Data and Copyrights requirements	Research & development				
Special DOL EEO clause for construction projects				>\$10,000	
Disadvantaged Business Enterprises (DBEs)	All	All	All	All	All
Prompt Payment	All if threshold for DBE program met	All if threshold for DBE program met	All if threshold for DBE program met	All if threshold for DBE program met	All if threshold for DBE program met
Recycled Products		Contracts for items designated by EPA, when procuring \$10,000 or more per year		Contracts for items designated by EPA, when procuring \$10,000 or more per year	Contracts for items designated by EPA, when procuring \$10,000 or more per year
ADA Access	A&E	All	All	All	
Special Notification Requirements for States	Limited to states	Limited to states	Limited to states	Limited to states	Limited to states

### REQUIRED THIRD PARTY CONTRACT CLAUSES

(excluding micro-purchases, except for construction contracts over \$2,000)

REQUIREMENT	COMMENTS	MASTER AGREEMENT REFERENCE***
<b>All Federally-Assisted Third Party Contracts and Subcontracts</b>		
No Federal government obligations to third parties by use of a disclaimer		§ 3.l
Program fraud and false or fraudulent statements and related acts		§ 4.3.f
Access to Records		§ 9.c
Federal changes		§ 3.i
Civil Rights (EEO, Title VI & ADA)		§ 12.c, e, and h.
Incorporation of FTA or applicable federal agency Terms	Per FTA C. 4220.1F etc.	
Energy Conservation		§ 26.j

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<b>Awards Exceeding \$10,000</b>		
Termination provisions	49 CFR Part 18 Not required of states	§ 16.d(2)12
<b>Awards Exceeding \$25,000</b>		
Debarment and Suspension	2 CFR Parts 180 and 1200	§ 4.b
<b>Awards Exceeding the Simplified Acquisition Threshold (\$150,000 – see Note)</b>		
Administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.		
Buy America	When tangible property or construction will be acquired	§ 15.a
Provisions for resolution of disputes, breaches, or other litigation		§ 39
<b>Awards Exceeding \$100,000 by Statute</b>		
Lobbying		§ 3.d
Clean Air		§ 16.d(7)7.n
Clean Water		§ 16.d(7)
<b>Transport of Property or Persons</b>		
Cargo Preference	When acquiring property suitable for shipment by ocean vessel	§ 15.b
Fly America	When property or persons transported by air between U.S. and foreign destinations, or between foreign locations	§15.c
<b>REQUIREMENT</b>	<b>COMMENTS</b>	<b>MASTER AGREEMENT#</b>
<b>Construction Activities</b>		
Davis Bacon Act	Except for contracts <\$2,000 or third party contracts for supplies, materials, or articles ordinarily available on the open market	§ 16.d(4)
Copeland Anti-Kickback Act		
Section 1	All	§ 24.a(3)
Section 2	Contracts >\$2,000	
Contract Work Hours & Safety Standards Act	Contracts >\$100,000	§ 16.d(5)
Bonding for construction activities	5% bid guarantee; 100% performance and payment bond	§ 16.n(1)
Seismic Safety	Contracts for construction of new buildings or additions to existing buildings	§ 23.b
Special DOL EEO Clause	Contracts >\$10,000	§ 12.d(3)

<b>Nonconstruction Activities</b>		
<i>Nonconstruction Employee Protection (Contract Work Hours and Safety Standards Act)</i>	<i>Applicable to all turnkey, rolling stock and operational contracts (excluding contracts for transportation services) &gt; \$100,000</i>	<i>§ 28.b</i>
<b>Transit Operations</b>		
<i>Transit Employee Protective Arrangements</i>	<i>Applies to Section 5307, 5309, 5311 and 5316 projects</i>	<i>§ 24.d28.d</i>
<i>Charter Service Operations</i>		<i>§ 2832</i>
<i>School Bus Operations</i>		<i>§ 29</i>
<i>Drug and Alcohol Testing</i>	<i>Safety sensitive functions. Applies to Section 5307, 5309 and 5311 projects</i>	<i>§40.b</i>
<b>Planning, Research, Development, and Documentation Projects</b>		
<i>Patent Rights</i>		<i>§ 17</i>
<i>Rights in Data and Copyrights</i>		<i>§ 1820</i>
<b>Miscellaneous Special Requirements</b>		
<i>Disadvantaged Business Enterprises (DBEs)</i>	<i>Contracts awarded on the basis of a bid or proposal offering to use DBEs</i>	<i>§ 12.e3.d</i>
<i>Prompt Payment and Return of Retainage</i>	<i>Per 49 CFR Part 26, if grantee meets the threshold for a DBE program</i>	<i>§ 12.e</i>
<i>Recycled Products</i>	<i>Contracts for items designated by EPA, when procuring \$10,000 or more per year</i>	<i>§ 16.d(10)</i>
<i>ADA Access</i>	<i>Contracts for rolling stock or facilities construction/ renovation</i>	<i>§ 12.h3.g</i>
<i>Assignability Clause</i>	<i>Piggyback procurements</i>	<i>§ 16.a(3)</i>
<b>State Requirements</b>		
<i>Special Notification Requirements for States</i>		<i>§ 37</i>

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### REQUIRED CERTIFICATIONS, REPORTS, AND FORMS (excluding micro-purchases, except for construction contracts over \$2,000)

REQUIREMENT	COMMENTS	MASTER AGREEMENT REFERENCE***
<i>Bus Testing Certification and Report</i>	<i>Procurements of buses and modified mass produced vans</i>	§ 16.m
<i>Transit Vehicle Manufacturer Certification</i>	<i>Procurements of railcars or buses and modified mass produced vans</i>	§ 12.d(4)
<i>Buy America Certification</i>	<i>Projects &gt;\$150,000 that contain steel, iron or manufactured products</i>	§ 15.a
<i>Pre-Award Audit</i>	<i>Rolling stock procurements</i>	§ 16 m
<i>Pre-Award Buy America Certification</i>	<i>Rolling stock procurements&gt;\$150,000</i>	§ 16 m
<i>Pre-Award Purchaser's Requirement Certification</i>	<i>Rolling stock procurements</i>	§ 16 m
<i>Post-Delivery Audit</i>	<i>Rolling stock procurements</i>	§ 16 m
<i>Post-Delivery Buy America Certification</i>	<i>Rolling stock procurements &gt;\$150,000</i>	§ 16 m
<i>Post-Delivery Purchaser's Requirement Certification</i>	<i>Rolling stock procurements</i>	§ 16.m7.p(3)
<i>On-Site Inspector's Report</i>	<i>Rolling stock procurements for more than 10 vehicles for areas &gt;200,000 in population and 20 for areas &lt;200,000 in population</i>	§ 16.m
<i>Federal Motor Vehicles Safety Standards Pre-Award and Post-Delivery Certification</i>	<i>Non-rail rolling stock procurements</i>	§ 16.m
<i>Excluded Parties Listing System search</i>	<i>Procurements &gt; \$25,000</i>	§ 4.b
<i>Lobbying Certification</i>	<i>Procurements &gt; \$100,000</i>	§ 4.d
<i>Standard Form LLL and Quarterly Updates (when required)</i>	<i>Procurements &gt; \$100,000 where contractor engages in lobbying activities</i>	§ 4.d
<i>Bus testing report showing that the bus model met FTA's bus testing requirements prior to acceptance of the first vehicle.</i>	<i>Rolling stock procurements</i>	
<i>Notify the FTA of all FTA-funded Rolling Stock awards, within 30 days of issuance of PO's.</i>	<i>Rolling stock procurements</i> <i>The information must be posted on FTA's web link <a href="#">Transit Vehicle Award Reporting Form[external link]</a></i> <i>And print a copy for file</i>	



### D. Exhibit D – Community Transit Board Resolution No. 05-11

#### RESOLUTION NO. 05-11

A RESOLUTION of the Board of Directors of the Snohomish County Public Transportation Benefit Area Corporation (SCPTBAC, dba Community Transit) which supersedes Resolution Nos. 15-98, 04-99, 09-02, 10-06, and 01-11 and authorizes the Chief Executive Officer to establish and maintain an agency-wide procurement program of policies and procedures in compliance with federal, state and local laws.

WHEREAS, Community Transit needs an agency-wide program of policies and procedures to govern Procurement, defined as (1) purchasing, renting, leasing, or otherwise acquiring any supplies, services, or construction; includes all functions that pertain to the acquisition, including description of requirements, selection and solicitation of sources, preparation and award of contract, and (2) all phases of contract administration; and (3) the combined functions of purchasing, inventory control, traffic and transportation (shipping), receiving, receiving inspection, storekeeping, and salvage and disposal operations (surplus); and

WHEREAS, federal, state and local laws have changed since Resolutions Nos. 15-98, 04-99, 09-02, 10-06, and 01-11 were established as policy; and

WHEREAS, an updated policy would enhance staff's ability to perform more efficiently, to be more adaptable in a dynamic business environment, to amend policies and procedures as the agency grows or laws change, and to strategically conduct procurement with regards to Community Transit's corporate vision and core values;

NOW, THEREFORE, BE IT RESOLVED,

1. That Resolution No. 05-11 supersedes Resolution Nos. 15-98, 04-99, 09-02, 10-06, and 01-11; and
2. That the Chief Executive Officer or designee is authorized to establish and maintain an agency-wide procurement program of policies and procedures in compliance with federal, state and local laws; and
3. Procurements that exceed \$100,000 in value or per contract year for multiple year contracts, except those listed in Section 4 Exemptions, shall be awarded by the Board of Directors. All other procurements shall be awarded by the Chief Executive Officer, provided they are funded from the Board approved budget; and
4. Exemptions: Community Transit considers the procurements listed in this paragraph as exemptions to the policy set forth in this resolution:
  - 4.1 Settlements of claims for taxes or damages of any sort, whether based upon tort, contract or otherwise;
  - 4.2 Contracts of employment, whether negotiated through duly authorized labor representative or not, and payroll disbursements or any other payments incidental to such contracts (including contracted employees);
  - 4.3 Traveling and living expenses of officers and employees;




- 4.4 Insurance and surety bond purchases;
- 4.5 The following proprietary purchases:
  - 4.5.1 Public utility service (water, sewer, electricity, and others as classified);
  - 4.5.2 Postage, permit, fee, license involving a single source of governmental agency;
  - 4.5.3 Training or professional services for the physical, emotional, or mental care of any Community Transit Employee;
  - 4.5.4 Interdepartmental transactions;
  - 4.5.5 Purchases, sales, leases, licenses, or other contracts affecting real property;
  - 4.5.6 Any sale, lease, licensing, or disposal of any personal property or services by the Corporation;
  - 4.5.7 Any exchange wherein Community Transit receives services or property in exchange for consideration other than money;
  - 4.5.8 Any contracts with sub-grantees or sub-recipients under FTA or other grants in aid programs. Such contracts shall be approved by the Board of Directors;
  - 4.5.9 Any other transactions which are controlled by any other ordinance or resolution;
  - 4.5.10 Negotiated contracts for the purchase or lease of new or used coaches on behalf of the Corporation;
  - 4.5.11 Consultants and expert witnesses as selected by Community Transit legal counsel related to litigation issues;
  - 4.5.12 Contracts for security officers with a local law enforcement agency(ies) and /or entity(ies) comprised of members from a local law enforcement agency(ies);
- 4.6 Fuels and lubricants purchased from State Contracts;
- 4.7 Vanpool gas station and credit card purchases pursuant to Community Transit Vanpool credit card program;
- 4.8 Employee benefits services procured through brokers;
- 4.9 Professional development services for employees;
- 4.10 Fuel hedging contracts;
- 4.11 Purchases made for The Amended and Restated Interlocal Cooperation Agreement for Design, Implementation, Operation, and Maintenance of the Regional Fare Coordination System (ORCA); and

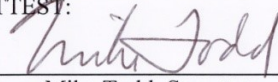
**4.12 Emergencies:** An “emergency purchase” is defined as a purchase made in response to unforeseen circumstances, beyond the control of Community Transit, which presents a real, immediate and extreme threat to the proper performance of essential functions, where there is a threat to health, welfare, or safety, and where a delay in award of a contract may result in serious injury, financial or other, to Community Transit.

The Chief Executive Officer or designee may make or authorize Community Transit personnel to make emergency purchases in the open market without advertisement or competition at the best obtainable price regardless of the amount of the expenditure. Such emergency purchases will be made with regards to competition as is practicable under the circumstances. All emergency purchases in excess of one hundred thousand dollars (\$100,000) shall be reported to the Board of Directors within 30 days.

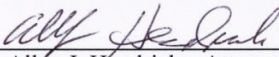
APPROVED AND PASSED THIS 4<sup>th</sup> day of Aug., 2011

  
Councilmember Dave Gossett, Chair

ATTEST:

  
Mayor Mike Todd, Secretary

APPROVED AS TO FORM

  
Allen J. Hendricks, Attorney

### E. Exhibit E – Community Transit Board Resolution No. 01-17

#### RESOLUTION NO. 01-17

A RESOLUTION of the Board of Directors of the Snohomish County Public Transportation Benefit Area Corporation (dba Community Transit) which revises Resolution No. 05-11.

WHEREAS, Community Transit Board of Directors adopted Resolution No. 05-11 which authorized the Chief Executive Officer to establish and maintain an agency-wide procurement program of policies and procedures in compliance with federal, state and local laws; and

WHEREAS, federal laws regarding procurement fiscal thresholds have changed since Resolution No. 05-11 was established as policy; and

WHEREAS, an updated policy would enhance Community Transit's ability to deliver its projects and programs more efficiently, to be more adaptable in a dynamic business environment, to amend policies and procedures as the agency grows or laws change, and to strategically conduct procurement with regards to Community Transit's strategic priorities;

NOW, THEREFORE, BE IT RESOLVED, that Resolution No. 01-17 revises Section 3 of Resolution No. 05-11 for all active and future contracts to:

3. Contracts that exceed \$150,000, at the time of award:

- a) In total, if a single-term contract (e.g., construction); or
- b) In any contract year, if a multi-year contract including option years,

shall be awarded by the Board of Directors, unless listed in Section 4 - Exemptions.

All other contracts or change orders shall be awarded by the Chief Executive Officer, subject to Board approved budgets.

APPROVED THIS 2 day of March 2017.

  
Councilmember Stephanie Wright, Board Chair

ATTEST

  
Mayor Jennifer Gregerson, Secretary

APPROVED AS TO FORM

  
Allen J. Hendricks, Attorney

## F. Exhibit F – Community Transit Office Supplies Procurement methods and controls

Purchase type-> Criteria ↓	Procurement's Office Supplies PO	Procurement's Paper PO	Procurement's Toner PO	Division PO; Blanket PO; PCard etc.
<b>Budget Account</b>	64172-40-50410	64172-40-50414	64172-40-50410	User Dept ID – fund source – as per Budget Book
<b>Supply source</b>	Contracted by Procurement <sup>1</sup>	Contracted by Procurement <sup>1</sup>	Contracted by Procurement <sup>1</sup>	Items may or may not be from a contracted vendor
<b>\$ threshold</b>	Must be below \$50 per item	None	None	Office supplies items over \$50 ea. or items that are not covered Procurement's PO's
<b>Condition</b>	Must be an "Office Supply" as defined in budget book for account code 50410 Office Supplies *.  PLEASE DO NOT USE items belonging to 50420 Minor Equipment or 50405 Maintenance Supplies	Standard copier paper, as defined in budget book for account code 50414 Paper Stock*	Toners for agency owned equipment are ordered by Procurement.  Toner for leased equipment is not purchased by Community Transit. The supplier of the equipment is responsible for toners.	Items may or may not be Office Supply, such as items covered by 50420 Minor Equipment or 50405 Maintenance Supplies
<b>Examples</b>	Pens, Pencils, Markers, Note Pads, Post-It- Notes, Index Cards, Labels, File Folders, File Organizers, Envelopes, Stapler, Staples, Scissors, Tape, Pushpins, Binders, Binder Index Systems, Paper Clips, Rubber bands,	Reams/boxes/rolls of copier or plotter paper.	Desktop and plotter toner, not copier toner.	Office Supplies (over \$50 per item), Furniture, Office Equipment, Batteries, Janitorial & First Aid Items, Food, Drinks, Paper plates, napkins etc., Computer Supplies & Accessories, Graphic Art Supplies, Communication



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	Paper, Toner, Plastic, batteries for office use (AA/AAA) etc.			Equipment & Supplies, etc.
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<sup>1</sup> (Procurement can only accept orders for its contracted vendors under the Procurement account, as Procurement is unable to monitor purchases if other sources were used. Procurement's contracted vendors orders are being routed thru Procurement by an ordering mechanism, and are approved by Procurement staff).

### \*EXTRACT FROM BUDGET BOOK

Account Code Name	Expenditure Type
50420 Minor Equipment	Any single item of equipment costing less than \$5,000 each including: <input type="checkbox"/> Maintenance equipment <input type="checkbox"/> Office furniture and fixtures <input type="checkbox"/> Office equipment
50405 Maintenance Supplies	Other consumables such as batteries FOR vehicles, equipment or tools, janitorial supplies, lumber, or any supplies used to maintain facilities or equipment.
50410 Office Supplies	<u>General office supplies purchased for consumption.</u> Procurement staff budgets for standardized office supplies used by all departments and costing less than \$50 per item. You should budget for any nonstandard or specialized office supplies or for office supply items costing more than \$50 per item. Examples: vault room coin bags for Finance or personnel files for HR.
50414 Paper Stock	Procurement staff budget for standardized paper needs for the agency, including standard letterhead and envelopes.  You should budget for specialized paper supply needs, including specialized letterhead, envelopes, or note cards.

## G. Exhibit G - Policy Clarification – Social Interaction with Vendors

Community Transit has several policies to guide employees in their interaction with vendors (including potential vendors). Community Transit also recognizes the importance of partnering and building business relationships with vendors to meet our corporate goals. The path to developing such cooperation may *occasionally* include social interaction (e.g. meals with vendors) during work hours or beyond.

When socially interacting with vendors, Community Transit employees should consider the perceptions of the public or competing vendors. Seeking prior approval of Manager/Director is advised. Obtaining Procurement Manager's guidance is also recommended.

Four tips to consider when interacting with vendors regarding “**M E A L**” are:

1. **Must** follow applicable policies.
  - a. [Personnel Policy Manual](#) Section 11 - Code of Ethics
  - b. Procurement Manual Section 3- Ethics
  - c. [Personnel Policy Manual](#) Section 10 - Drug and Alcohol Abuse Policy
  - d. [Travel Policy](#)
2. Exemplify CT's Strategic Priorities. Two examples are:
  - a. Financial Stewardship. The social interaction must support improving CT's goals and contract outcome to bring more value for tax dollars.
  - b. Partnership and Advocacy. As a trusted partner, do not give or be perceived to be giving preferential treatment to a vendor.
3. **Always** use good judgement in interacting with vendors.
  - a. While you will be the first to decide whether to accept any gift (items, meals etc.), you must recognize that others will decide if there is “the appearance of impropriety” for you having accepted a gift.
  - b. Also, the timing of the event is very important –employees or their Manager/Director should obtain input from Procurement Manager, before participating in a social event with a vendor who is involved in competitive procurement process.
  - c. Ensure that the value of the gift (items, meals etc.) is nominal.
4. **Lead** the conversation to maintain transparency with vendors. A few suggestions are:
  - a. Inform the vendor we need to split the meal bill.
  - b. Inform the vendor that we have a Drug and Alcohol Policy when declining an invitation that may violate that policy.

When at an offsite event (e.g. meeting, convention etc.), an approach of “if everyone is going to vendor hosted party, it must be OK” may not be the right approach. Think how it may play in the media.