

**Financial Management**

**Duluth Transit Authority**

**October 30, 2019**

# FOREWORD

This document contains three critical areas for financial management of the DTA. They are not in any priority order; Procurement, Continuing Control, and Grants Management.

This Procurement Chapter contains instructions regarding basic policies, procedures, and practices for the procurement of goods and services by the Duluth Transit Authority. These instructions are for the guidance of all personnel who participate in actions and decisions relating to the procurement of goods and services.

Careful coordination of the activities of all departments must be observed to accomplish Duluth Transit Authority's objectives of buying at prices that optimize efficiency and cost effectiveness of all public funds expended.

Continuing Control documents the procedures and responsibilities needed to insure proper use of publically owned items as well as status of them.

Grants Management starts with the formation of grant, the approvals needed, and how the details of the grant are maintained, including procurement, all the way to grant closeout.

Recommendations for improvements or additions to this manual that will make it more useful to staff would be appreciated.

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## SECTION 1 – POLICY

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### 1.0 PURCHASING POLICY – The Duluth Transit Authority Procurement Policies and Procedures have been established in order to:

- \* Maximize the value Duluth Transit Authority receives for expended funds.
- \* Provide an efficient and cost-effective flow of goods and services throughout the Duluth Transit Authority.
- \* Protect assets purchased with public funds and ensure their application to purposes in Duluth Transit Authority’s interest.
- \* Comply with Federal, State, and Local statutes, laws, policies, and procedures.
- \* Protect public funds against misappropriation and misallocation.
- \* Protect the reputation of ALL employees against charges of theft, misappropriation, or perception of same.
- \* It is not the intent of this Purchasing Policy to circumvent or disregard any formalized Federal, State, or local policies regarding procurements. It is the intent of this Procurement Policy to enhance upon other formal policies and to encompass the Duluth Transit Authority’s unique procurement requirements.

The Finance and Maintenance Departments, or their designee, is responsible and accountable for placing all orders for goods and services. No other departments may commit funds to potential or existing suppliers/vendors on Duluth Transit Authority’s behalf.

Duluth Transit Authority employees, at all levels, and Duluth Transit Authority Board Members are charged with the responsibility to assist in optimizing the value returned from the expenditures of public funds and to immediately report all observations of waste, fraud, or abuse.

Whenever, in a manager’s judgement, the Duluth Transit Authority’s best interest would be served by an exception to this policy, it is expected that this issue will be raised at the proper level of approval based on the size of the purchase.

#### 1.01 General Standards

- a. Conformance with State and Local Law. The DTA shall use our own procurement procedures that reflect the most restrictive applicable State and local laws and regulations, provided that the procurements conform to applicable Federal law, including the requirements and standards identified in this circular. If there is no State law on a particular aspect of procurement, then Federal contract law principles will apply.
- b. Allowability of Costs. The DTA shall comply with all applicable standards of 2 CFR Part 200.403 as may be amended from time to time.  
Allowability Costs are defined and determined by the following:
  - (a) Be necessary and reasonable for the performance of the Federal award and be allocable thereto under 2 CFR Part 200.
    - i. Costs are defined as reasonable, if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost.

ii. Consideration of reasonable must include whether the cost is of a type generally recognized as ordinary and necessary for the operation of the DTA or the proper and efficient of the Federal award.

iii. Consideration of reasonable must also include other restraints or requirements imposed by such factors as sound business practices; arm's-length bargaining; Federal, state local, tribal, and other laws and regulations; and terms and conditions of the Federal award.

iv. Consideration of reasonable must also include market prices for comparable goods or services for the geographic area (if available).

v. Consideration of reasonable must also include whether the individuals concerned acted with prudence in the circumstances considering their responsibility to the DTA, its employees, the public at large and the Federal Government.

(b) Conform to any limitations or exclusions set forth in these principles or in the Federal award as to types or amount of cost items.

(c) Be consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the DTA.

(d) Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the Federal award as an indirect cost.

(e) Be determined in accordance with generally accepted accounting principles (GAAP), except, for state and local governments, as otherwise provided for in this part.

(f) Not be included as a cost or used to meet cost sharing or matching requirements of any other federally financed program in either the current or prior period in compliance with 2 CFR part 200.306, "Cost sharing or matching." paragraph (b), as may be amended from time to time.

(g) Be adequately documented in compliance with 2 CFR Part 200.300 -309, as may be amended from time to time.

(h) Allowability of Cost shall be determined by the DTA Director of Finance or designee prior to purchase of goods and services.

- c. Contract Administration System. The DTA shall maintain a contract administration system that ensures that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.
- d. Written Standards of Conduct. The DTA shall maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. No employee, officer, agent, immediate family member, or Board member of the grantee shall participate in the selection, award, or administration of a contract supported by FTA funds if a conflict of interest, real or apparent, would be involved.

Such a conflict would arise when any of the following has a financial or other interest in the firm selected for award:

- (1) The employee, officer, agent, or Board member,
- (2) Any member of his/her immediate family,
- (3) His or her partner, or

(4) An organization that employs, or is about to employ, any of the above.

The DTA's officers, employees, agents, or Board members will neither solicit nor accept gifts, gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to subagreements. The DTA may set minimum rules when the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value (\$5.00 or less). To the extent permitted by state or local law or regulations, such standards of conduct will provide for penalties, sanctions, or other disciplinary action for violation of such standards by the DTA's officers, employees, or agents, or by contractors or their agents.

- e. Ensuring Most Efficient and Economic Purchase. The DTA shall provide for a review of proposed procurements to avoid purchase of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase.

Where appropriate, an analysis will be made of lease versus purchase alternatives and any other appropriate analysis to determine the most economical approach.

- f. Intergovernmental Procurement Agreements.

(1) The DTA may utilize available state and local intergovernmental agreements for procurement or use of common goods and services. When obtaining goods or services in this manner, The DTA must ensure all federal requirements, required clauses, and certifications (including Buy America) are properly followed and included, whether in the master intergovernmental contract or in the DTA's purchase document.

(2) The DTA will also strive to jointly procure goods and services with other FTA grantees. When obtaining goods or services in this manner, The DTA must ensure all federal requirements, required clauses, and certifications are properly followed and included in the resulting joint solicitation and contract documents.

(3) The DTA may assign contractual rights to purchase goods and services to other FTA grantees if the original contract contains appropriate assignability provisions. The DTA may obtain these contractual rights (commonly known as 'piggybacking') after first determining the contract price remains fair and reasonable.

- g. Use of Excess Or Surplus Federal Property. The DTA shall strive to use Federal, State or local excess and surplus property in lieu of purchasing new equipment and property, whenever such use is feasible and reduces project costs.

- h. Use of Value Engineering in Construction Contracts. The DTA shall strive to use value engineering clauses in contracts for construction projects.

- i. Awards to Responsible Contractors. The DTA shall make awards only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration shall be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.



- j. Written Record of Procurement History. The DTA shall maintain records detailing the history of each procurement. At a minimum, these records shall include:
  - (1) the rationale for the method of procurement,
  - (2) selection of contract type,
  - (3) reasons for contractor selection or rejection, and
  - (4) the basis for the contract price.
  
- k. Use of Time and Materials Type Contracts. The DTA will use time and material type contracts only:
  - (1) After a determination that no other type of contract is suitable; and
  - (2) If the contract specifies a ceiling price that the contractor shall not exceed except at its own risk.
  
- l. Responsibility for Settlement of Contract Issues/Disputes. The DTA alone will be responsible in accordance with good administrative practice and sound business judgment for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the grantee of any contractual responsibility under its contracts.
  
- m. Contract Term Limitation. The DTA shall not enter into any contract for rolling stock or replacement parts with a period of performance exceeding five (5) years inclusive of options. All other types of contracts (supply, service, leases of real property, revenue and construction, etcetera) will be based on sound business judgment. The DTA will be judicious in establishing and extending contract terms no longer than minimally necessary to accomplish the purpose of the contract. Additional factors to be considered include competition, pricing, fairness and public perception. Once a contract has been awarded, an extension of the contract term length that amounts to an out of scope change will require a sole source justification.
  
- n. Revenue Contracts. Revenue contracts are third party contracts whose primary purpose is to either generate revenues in connection with a transit related activity, or to create business opportunities utilizing a DTA asset. These contracts will be awarded utilizing competitive selection procedures and principles.
  
- o. Piggybacking. Piggybacking is permissible when the solicitation document and resultant contract contain an assignability clause that provides for the assignment of all or a portion of the specified deliverables as originally advertised, competed, evaluated, and awarded. If the supplies were solicited, competed and awarded through the use of an indefinite-delivery-indefinite-quantity (IDIQ) contract, then both the solicitation and contract award must contain both a minimum and maximum quantity that represent the reasonably foreseeable needs of the party(s) to the solicitation and contract. If two or more parties jointly solicit and award an IDIQ contract, then there must be a total minimum and maximum.

- p. E-Commerce. E-Commerce is an allowable means to conduct DTA procurements. These procurements will be in accordance with FTA circular 4220.1F, as amended.
- q. The DTA will provide, upon request, the necessary documents and records to designated parties by the DTA Board of Directors to conduct required FTA oversight of DTA under FTA Circular 5010.1E, as may be amended from time to time.

**1.1 ETHICS POLICY** – All Duluth Transit Authority administrative employees plus any other employees who may become involved in a procurement activity and Duluth Transit Authority Board Members, when dealing with or for the Duluth Transit Authority, will adhere to the following standards which govern performance and business ethics:

- \* To consider first the interests of the Duluth Transit Authority in all transactions and to carry out its established policies.
- \* To be receptive to competent counsel from his/her colleagues and to be guided by such counsel without impairing the dignity and responsibility of his/her office.
- \* To buy without prejudice, seeking to obtain the maximum value from each dollar of expenditure.
- \* To strive consistently for knowledge of the material and processes of manufacture and to establish practical methods for the conduct of his/her office.
- \* To subscribe to and work for honesty and truth in buying and selling and to denounce all forms and manifestations of commercial bribery.
- \* To accord a prompt and courteous reception, so far as conditions will permit, to all who call on a legitimate business mission.
- \* To avoid sharp, shady, or unethical practices or the perception thereof.
- \* To counsel and assist fellow purchasing personnel in the performance of their duties, whenever occasion permits.
- \* To cooperate with all organizations and individuals engaged in activities designed to enhance the development and standing of purchasing.

Additionally, it shall be the policy of all Duluth Transit Authority employees and Board Members to adopt an “arms length” relationship with regard to suppliers, vendors, service companies, passengers, etc., thereby avoiding all conflicts of interest or the appearance of conflicts of interest. Duluth Transit Authority employees and Board Members will neither endorse, accept, nor solicit gratuities, favors, or anything of monetary value, from an existing or potential vendor that is of such a character as to manifest a substantial and improper influence upon him/her with respect to assigned duties, or that would give the appearance of such an influence.

## 1.1 PENALTIES (Staff)

**Responsibility Determination** For violation of any provision of this Ethics Policy, the DTA may avail itself of every remedy in law or equity, to enact penalties to the employee, up to and including dismissal.

**Civil/Criminal Penalties** Additionally, violation of the Ethics Policy or a provision thereof may subject the Employee to criminal or civil penalties under State or Federal law.

## 1.2 PURCHASING GOODS AND SERVICES FROM EMPLOYEES

1.2.1 No Duluth Transit Authority employee or Board Member who administers or awards a contract on behalf of Duluth Transit Authority shall knowingly do any of the following:

- a) Authorize, employ the authority or influence of his/her position to secure authorization of, participate in selection of or award of, or participate in the administration of, any contract in which he/she, any family member or any business associate or any organization which employs or is about to employ him/her has an interest.
- b) Have an interest in the profit or benefits of a contract entered into by or for the use of Duluth Transit Authority.
- c) Have an interest in the profits or benefits of a Duluth Transit Authority contract, which is not let by competitive bidding when required by law.

1.2.2 A Duluth Transit Authority employee, Board Member, family member, or business associate may have an interest in a contract when all of the following apply:

- a) The subject of the contract is supplies or services necessary for the Duluth Transit Authority.
- b) The contract is let by competitive bidding at established competition levels.
- c) The supplies or services are unavailable elsewhere for the same or a lower cost. The FTA considers fair and open public bidding to demonstrate this unavailability.
- d) The treatment accorded Duluth Transit Authority by the employee is neither preferential to or the same as the accorded by the employee to his/her other customers or clients in similar transactions.
- e) The entire transaction is conducted at arm's length, with full knowledge by FTA of interest of the employee, family member, or business associate.
- f) The employee takes no part in the deliberations or decision of Duluth Transit Authority with respect to the contract.
- g) The contract is approved by the Board President and the General Manager.
- h) In the absence of bribery or a purpose to defraud, a Duluth Transit Authority employee, family member, or any of his/her business associates will not be considered as having an interest in a Duluth Transit Authority contract if (1) his/he interest is limited to owning or controlling shares of a corporation or other organization which is the contractor on the Duluth Transit Authority contract or being a creditor of it, (2) he/she does not own or control more than 5% of the said shares, (3) any amount due him/her as a creditor does not exceed 5% of the total

indebtedness of the corporation or other organization, and (4) he/she files in advance with Duluth Transit Authority an affidavit giving his/her exact status in connection with the corporation or other organization.

- 1.2.3 A subcontract under a Duluth Transit Authority contract is legally a public contract and the prohibitions applicable to Duluth Transit Authority employees with reference to contract directly with Duluth Transit Authority also apply to contract of Duluth Transit Authority employees with Duluth Transit Authority contractors. Hence if a Duluth Transit Authority employee were to be a subcontractor, that subcontract would have to have been competitively bid.

### **1.3 VENDOR REIMBURSEMENT OF EXPENSES**

Duluth Transit Authority employees and Board Members may not solicit or accept meals, transportation, lodging, or other things of value from persons providing or seeking to provide goods or services to the Duluth Transit Authority. This prohibition includes, but is not limited to, accepting meals, transportation, lodging or other things of value in connection with viewing the goods or services of a vendor or potential vendor.

### **1.4 COMPETITION POLICY**

It shall be the policy of the Duluth Transit Authority to routinely research, promote, and otherwise optimize competitive supplier interest in all matters involving the expenditures of public funds for goods and services. Duluth Transit Authority utilizes the stricter of either State or Federal thresholds for formal bidding. On April 26, 2019 the Minnesota State threshold was set at \$175,000 for sealed bids. As State or Federal thresholds are adjusted in the future, Duluth Transit Authority will continue to use the stricter of the two thresholds or approved by the DTA Board of Directors to determine at what level formal bids become necessary. Goods or services with an estimated unit cost will be competitively bid or competitively negotiated in accordance with Federal law, Revised Code, and FTA Guidelines. Chapter Three delineates the bid process.

The DTA shall operate under the definition of full and open competition as described in FTA circular 4220.1F, as amended.

- a. Full and Open Competition. All procurement transactions will be conducted in a manner providing full and open competition. Some situations considered to be restrictive of competition include, but are not limited to:
- (1) Unreasonable requirements placed on firms in order for them to qualify to do business;
  - (2) Unnecessary experience and excessive bonding requirements;
  - (3) Noncompetitive pricing practices between firms or between affiliated companies;
  - (4) Noncompetitive awards to any person or firm on retainer contracts;
  - (5) Organizational conflicts of interest. An organizational conflict of interest means that because of other activities, relationships, or contracts, a contractor is unable, or

potentially unable, to render impartial assistance or advice to the grantee; a contractor's objectivity in performing the contract work is or might be otherwise impaired; or a contractor has an unfair competitive advantage;

- (6) Specifying only a “brand name” product instead of allowing “an equal” product to be offered without listing its’ salient characteristics.

Salient characteristics may be defined in language similar to the following:

- (a) ‘Original Equipment Manufacturer (OEM) part #123 or approved equal that complies with the original equipment manufacturer’s requirements or specifications and will not compromise any OEM warranties’; or
- (b) ‘Original Equipment Manufacturer part #123 or approved equal that is appropriate for use with and fits properly in [describe the bus, engine, or other component the part must be compatible with] and will not compromise any OEM warranties’; and
- (c) Any arbitrary action in the procurement process.

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

- c. Written Procurement Selection Procedures. The DTA shall have written selection procedures for procurement transactions. All solicitations shall:

- (1) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features that unduly restrict competition. The description may include a statement of the qualitative nature of the material, product, or service to be procured and when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use.

Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured, and when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. 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 a procurement. The specific features of the named brand which must be met by offerors shall be clearly stated.

- (2) Identify all requirements that offerors must fulfill and all other factors to be used in evaluating bids or proposals.
- d. Currently the DTA does not prequalify vendors of any products. Should that change the DTA shall ensure that all lists of prequalified persons, firms, or products that are used in acquiring goods and services are current and include enough qualified sources to ensure maximum full and open competition. Also, grantees shall not preclude potential bidders from qualifying during the solicitation period, which is from the issuance of the solicitation to its closing date.
- e. Sustainability is a consideration for all procurements at the DTA where it does not negatively impact the bid process. Sound environment practices will be incorporated into all DTA purchasing.

## 1.5 CONTRACT RENEWAL

A long-term contract or purchase agreement (e.g., six months, one year) may be renewed with the current supplier vendor without utilizing the formal or informal bidding process, when all of the following conditions are met:

- \* The new price from the current supplier is equal to or less than the old price, or less than the second bid received in reply to the previous request for bids,
- \* The anticipated twelve-month dollar volume is less than the stricter of the State or Federal thresholds for formal bids, and
- \* Market indicators do not show a general trend of decreasing prices for the commodity involved.
- \* Commodities involved must be funded by Operating Funds only and not Capital Grant Funds.
- \* All contract renewals must be approved by the General Manger.

## 1.6 OPTIONS

An option is a unilateral right in a contract by which, for a specified time, the Duluth Transit Authority may elect to purchase additional equipment, supplies, or services called for by the contract or may elect to extend the term of the contract. Conditions for options are delineated in 4220.1F, as amended.

The requirements below apply:

- (1) Evaluation of Options. The option quantities or periods contained in the contractor's bid or offer must be evaluated in order to determine contract award. When options have not been evaluated as part of the award, the exercise of such options will be considered a sole source procurement.
- (2) Exercise of Options.
  - (a) A grantee must ensure that the exercise of an option is in accordance with the terms and conditions of the option stated in the initial contract awarded.

- (b) An option may not be exercised unless the grantee has determined that the option price is better than prices available in the market or that the option is the more advantageous offer at the time the option is exercised.

### **1.7 DISADVANTAGED BUSINESS ENTERPRISE (DBE) POLICY**

It shall be the policy of the Duluth Transit Authority to actively encourage and assist Disadvantaged Business Enterprises (DBEs) to participate competitively in all procurement actions per Federal, State, and local laws, regulations, and policies. The DBE Officer will annually review and recommend appropriate organizational DBE goals, based upon anticipated procurement actions and available certified DBE suppliers.

### **1.8 BIDDERS LIST POLICY**

The DTA shall develop and maintain a list of potential bidders.

### **1.9 VENDOR VISITATION POLICY**

The Finance Department or its designee is responsible and accountable for placing all orders for goods and services. No other department may commit funds to potential or existing suppliers/vendors on the Duluth Transit Authority's behalf. Vendors will be afforded the opportunity to visit the Duluth Transit Authority between the hours of 9:00 a.m. and 3:00 p.m. on normal business days. Although not required, appointments will be encouraged.

## SECTION II – ORGANIZATIONAL RESPONSIBILITIES

**2.0 ORGANIZATION AND RESPONSIBILITIES** – The purchasing authority of the Duluth Transit Authority shall be organized as follows:

**2.01 BOARD OF DIRECTORS** – The Duluth Transit Authority Board of Directors consists of nine members and is representative of the service are covered by the Duluth Transit Authority. The Board convenes monthly or as required and is responsible for policy making, approving resolution by which the Duluth Transit Authority staff functions, and regulating and approving the expenditures of funds in awarding contract. The Duluth Transit Authority Board also reviews all requests for grant funding.

**2.02 GENERAL MANAGER** – The Duluth Transit Authority General Manger is entrusted and authorized by the Board of Directors to enter into contracts of less than \$ \$50,000. The General Manager may also enter into contract of more than \$\$50,000 upon Board approval.

**2.03 DIRECTOR OF– Finance** The Director of Finance performs as the Duluth Transit Authority’s Procurement Officer and senior staff point of contact for all matters involving the timely and cost-effective acquisition of goods and services. Responsibilities include, but are not limited to:

- \* Developing and recommending organization-wide purchasing objectives, policies, programs, and procedures for negotiation and acquisition of materials, equipment, supplies, and services.
- \* Instituting the reporting necessary to permit analysis of the Finance Department performance.
- \* Negotiating and making recommendations concerning term contracts and leases to the best interest of the Duluth Transit Authority.
- \* Consolidating purchase of like or common item to obtain maximum economic benefits.
- \* Purchasing equipment, supplies, and services for the Duluth Transit Authority’s use in such a manner that the maximum value will be obtained for the money expended. Purchases shall be made from qualified suppliers whose reputations, financial positions, and price structures are sufficiently adequate for consideration as logical sources of supply. In cases of competitive bidding, purchase from the lowest and best bidder (Minnesota law) and the responsible bidder submitting the lowest responsive bid (Common Regulations). In the case of procurement by competitive proposals, award to the responsible firm whose proposal is most advantageous to the Duluth Transit Authority with price and other factors considered (Common Regulations).
- \* Arranging for the disposal and/or sale of surplus materials and equipment.
- \* Assisting with other departments of the Duluth Transit Authority to maintain inventories at a satisfactory operating and dollar-value level.
- \* Studying the market to analyze prices paid for materials and equipment; generally defines how to obtain savings through improved specifications and



supervision of supply sources; recommending changes in quantities to be ordered when conditions warrant.

- \* Utilizing known contact and sources to expedite deliveries of needed material and equipment.
- \* Working with other departments of the Duluth Transit Authority to promote better customer and supplier relations.
- \* Developing and maintaining a 12 month projection of necessary goods and services and estimated price thereof. Investigating high-dollar expenditures (\$2,500 and above), exploring cost-savings potential for formal bidding, and where justified, incorporating into the formal bidding schedule.
- \* Serving on all committees involved with the development of bid or proposal specifications.
- \* Advising and assisting project managers in the development of technical specifications for formal advertisement (non-committee).
- \* Performing Contract Administration duties as applicable.
- \* Performing necessary research to assure that all Duluth Transit Authority purchasing activities are in compliance with Federal, State, local and other applicable laws, policies, and procedures.
- \* The Director of Finance shall also be the ECHO Officer for drawdowns of Federal operating and capital monies. These shall all be approved by the General Manager.

**2.04 CAPITAL ASSETS SUPERVISOR** – The Director of Finance serves as the Duluth Transit Authority’s senior staff point of contact for all matters involving the control and disposition of capital assets.

**2.05 GRANTS ADMINISTRATOR** – The Director of Planning and Grants serves as the Duluth Transit Authority’s staff point of contact for all matters involving the preparation and processing of anticipated grant-funded acquisitions (capital or planning grants). Department managers will coordinate with the Director of Planning and Grants in all instances where the acquisition of grant-funded goods or services that are anticipated. The Director of Planning and Grants shall be responsible for all matters involving grant award management and reporting, including:

- Short Term and Long Term Capital and Operating Assistance Planning
- Identifying grant opportunities, timelines, grantee requirements
- Grant Application
- Grant Award
- Grant Reporting to FTA and DTA Board as required
- Grant Amendments
- Coordination with MIC on TIP and STIP
- Transit Asset Management Plan preparation and reporting
- Tracking and Reporting Grant Status in conjunction with Finance Director
- Grant Closeout

**2.06 BUDGET ANALYST** – The Finance Director serves as the Duluth Transit Authority’s staff point of contact for all matters involving the preparation and processing of annual and revised budgetary forecasts.

- 2.07 PROCUREMENT MANAGER** – The Procurement Manager collaborates with the Director of Planning and Grants, the Finance Director, and Department Managers to assist with procurement processes and procedures. Responsibilities include, but are not limited to:
- Serving on all committees involved with the development of bid or proposal specifications.
  - Advising and assisting project managers in the development of technical specifications for formal advertisement (non-committee).
  - Assist with contract administration of procured goods and services; process change orders, close out documents, etc.
  - Assist the DBE Liaison Officer with tracking DBE awards, compliance.
  - Provide City Attorney with formal bid documents, prepare revisions as directed.
  - Assist with settlement of bid protests, award protests, contract issues and disputes, including source evaluation, and claims.
  - Verify performance and payment bonds, as applicable.
  - Produce Notice of Award, review request for payment for contract compliance.
  - Assist with monitoring contract changes, extensions, or other contract changes during the contract performance period.
  - Assist with documentation of contract close out.
  - Performing necessary research to assure that all Duluth Transit Authority purchasing activities are in compliance with Federal, State, local and other applicable laws, policies, and procedures.

**2.08 DEPARTMENT MANAGERS** –

- \* Identify and approve needs for goods or services:
  - \* For non-stock items, preparing and approving a purchase request providing a complete description of the goods or services desired.
  - \* If the value of the purchase is \$25.00 or over, obtain approval from the Finance Director. If the value is over \$500.00, obtain approval from the General Manger and the Finance Director.
  - \* Forward approved purchase request to the Finance Department retaining last copy.
  - \* If the item is to be a stock item, prepare a New Stock requisition. Forward the request to the Finance Director and attach a copy to the purchase request.
  - \* If a service has been requested, the third (pink) copy of the purchase order will be kept by the requesting department head. The second (yellow) copy must be forwarded to Accounts Payable indicating receipt of the service after the service has been performed. For partial receipts, a photocopy of this form should be forwarded to Accounts Payable. Exceptions to this provision exist for services of a complex and on-going nature, e.g., legal services, consulting, management services, and medical services.
  
- \* Reviews planned acquisitions (inventory, local capital, grant-funded, non-inventory), and projects the total requirement during annual budget planning.
  
- \* Coordinates all non-inventory purchases in excess of \$500 that are planned during the forthcoming budget year with the Finance Director to assure inclusion and prioritization within the annual procurement plan and the establishment of appropriate cost center DBE goals.

- \* Develops, per the above coordination, all necessary documentation (see Part III, Procedures) to assure timely and efficient acquisition of the necessary goods or services.
- \* Evaluates quality and/or service aspects of goods or services acquired as a result of the above; provides feedback to the Finance Director as appropriate.
- \* Issues receiving reports for all items ordered that are delivered directly to department.
- \* If an original invoice is received against any purchase order, it shall be forwarded to Accounts Payable.

## **2.09 INVENTORY SPECIALIST**

- \* Reviews Inventory Reorder Report daily and indicates items and quantities to be ordered.
- \* Forwards report to Director of Maintenance to authorized reorder of stock items.
- \* Initiates special orders for stock or non-stock items to cover the requirements of authorized maintenance campaigns or seasonal purchases. (Note: inventory minimum and maximum not adjusted for these purchases.)
- \* Solicits bids for all items and recommends the fair and reasonable bidder for the Director of Maintenance to review, analyze, and approve as appropriate.
- \* Classifies all new parts.
- \* Makes regular physical stock checks.
- \* Controls inventory going to departments and/or garage.
- \* Maintains current parts books.
- \* Maintains close contact with Finance Director, departments, vendors, and shippers.
- \* Reviews inventory minimum and maximum, in consultation with the Director of Maintenance, and adjust as required.

## **2.10 Maintenance Clerk**

- \* Receives parts and verifies invoice to Purchase Orders and/or Task Orders.

## SECTION III – PROCEDURES

### 3.0 METHODS OF PROCUREMENT

The following methods of procurement may be used as appropriate:

- a. Procurement by Micro-Purchases. Micro-purchases are those purchases under \$ \$10,000. Purchases below that threshold may be made without obtaining competitive quotations. Such purchases are exempt from Buy America requirements. There should be equitable distribution among qualified suppliers and no splitting of procurements to avoid competition. The Davis-Bacon Act applies to construction contracts over \$2,000 . Minimum documentation is required: A determination that the price is fair and reasonable and how this determination was derived. No options are allowed for micro purchases.
- b. Procurement by Small Purchase Procedures. Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that cost more than \$10,000 but do not cost more than the simplified acquisition threshold fixed \$50,000 as per DTA Board (the Federal requirement is contained in 41 U.S.C. § 403(11) (currently set at \$ 150,000)). If small purchase procedures are used, price or rate quotations shall be obtained from an adequate number of qualified sources.
- c. Procurement By Sealed Bids/Invitation For Bid (IFB) or Request for Bids (RFB). Bids are publicly solicited and a firm-fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming to all the material terms and conditions of the invitation for bids, is the lowest in price. The competitive sealed bid method is applicable for both grant-funded or non-grant funded purchases. In either instance, the requestor incurs the responsibilities to: obtain approval from the General Manger; to complete and process a purchase requisition through appropriate channels, and to develop complete and realistic technical specifications. Detailed procedures on purchases in this category that are acquired through operating funds or capital grants are contained in Appendix 3.
  - (1) In order for sealed bidding to be feasible, the following conditions should be present:
    - (a) A complete, adequate, and realistic specification or purchase description is available;
    - (b) Two or more responsible bidders are willing and able to compete effectively for the business;
    - (c) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price; and
    - (d) No discussion with bidders is needed.
  - (2) If this procurement method is used, the following requirements apply:
    - (a) The invitation for bids will be publicly advertised and bids shall be solicited from an adequate number of known suppliers, providing them sufficient time to prepare bids prior to the date set for opening the bids;

- (b) The invitation for bids, which will include any specifications and pertinent attachments, shall define the items or services sought in order for the bidder to properly respond;
  - (c) All bids will be publicly opened at the time and place prescribed in the invitation for bids;
  - (d) A firm fixed-price contract award will be made in writing to the lowest responsive and responsible bidder. When specified in bidding documents, factors such as discounts, transportation costs, and life cycle costs shall be considered in determining which bid is lowest;
 

Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and
  - (e) Any or all bids may be rejected if there is a sound documented business reason.
- (3) The sealed bid method is the preferred method for procuring construction if the conditions above apply.

- d. Competitive Negotiation – Proposals are requested from a number of sources and the request for proposal (RFP) is publicized in a variety of trade or public media.

Negotiations are normally conducted with more than one of the sources submitting offers, and either a fixed-price or cost-reimbursable type contract is awarded, as appropriate. All cost-reimbursable contracts must have approval of the General Manger. Competitive negotiation may be used if conditions are not appropriate for the use of competitive sealed bids, i.e.:

- \* Oral/written discussions with offers are needed for negotiation.
- \* Award is based on comparative evaluation of differing price, quality, and other contractual factors; not price alone.
- \* A more general description of service specifications is appropriate/preferred.
- \* Flexibility is necessary and creative responses are desirable.

Since the competitive negotiation process depends largely upon numerous evaluation criteria other than price, the appointment of a project manager and committee that is representative of all effected departments may be necessary. All competitive negotiation committees will include the Finance Director or his/her designee. Detailed guidance for project managers involved in operating, planning grant or capital grant-funded acquisitions is contained in Appendix 4.

An award will be made to the responsible firm whose proposal is most advantageous to the Duluth Transit Authority with price and other factors considered.

A combination of the two above purchasing strategies known as multi-step purchases is also available when the expenditure of significant funds is anticipated. In these instances, the Finance Director will review the planned acquisition and make appropriate recommendations to senior management.

The appropriate method of procurement will be determined by the Procurement Manager.

In all instances involving the expenditures that meet or exceed the threshold for formal bid, the requestor or project manager must coordinate with the Procurement Manager at the earliest possible opportunity (typically, the budget planning period) to assure inclusion and prioritization within the annual procurement plan. The above referenced appendices indicate typical time and staff interface requirements for all purchases in this category.

- e. Procurement By Competitive Proposal/Request for Proposals (RFP). The competitive proposal method of procurement is normally conducted with more than one source submitting an offer, i.e., proposal. Either a fixed price or cost reimbursement type contract is awarded. This method of procurement is generally used when conditions are not appropriate for the use of sealed bids. If this procurement method is used the following requirements apply:
- (1) Requests for proposals will be publicized. All evaluation factors will be identified along with their relative importance;
  - (2) Proposals will be solicited from an adequate number of qualified sources;
  - (3) Grantees will have a method in place for conducting technical evaluations of the proposals received and for selecting awardees;
  - (4) Awards will be made to the responsible firm whose proposal is most advantageous to the grantee's program with price and other factors considered; and
  - (5) In determining which proposals is most advantageous, the DTA may award (if consistent with State law) to the proposer whose proposals offer the greatest business value to the DTA based upon an analysis of a tradeoff of qualitative technical factors and price/cost to derive which proposal represents the "best value" to the Procuring Agency as defined in 4220.1F, Section 6, Definitions. If the grantee elects to use the best value selection method as the basis for award, however, the solicitation must contain language which establishes that an award will be made on a "best value" basis.
- f. Procurement Of Architectural and Engineering Services (A&E). The DTA shall use qualifications-based competitive proposal procedures (i.e., Brooks Act procedures) when contracting for A&E services as defined in 40 U.S.C. §541 and 49 U.S.C. §5325(d). Services subject to this requirement are program management, construction management, feasibility studies, preliminary engineering, design, architectural, engineering, surveying, mapping, and related services.
- Qualifications-based competitive proposal procedures require that:
- (1) An offeror's qualifications be evaluated;
  - (2) Price be excluded as an evaluation factor;
  - (3) Negotiations be conducted with only the most qualified offeror; and

- (4) Failing agreement on price, negotiations with the next most qualified offeror be conducted until a contract award can be made to the most qualified offeror whose price is fair and reasonable to the grantee.

These qualifications-based competitive proposal procedures can only be used for the procurement of the services listed above. This method of procurement cannot be used to obtain other types of services even though a firm that provides A&E services is also a potential source to perform other types of services.

These requirements apply except to the extent the grantee's State adopts or has adopted by statute a formal procedure for the procurement of these services.

- g. Procurement of Design-Bid-Build. Grantees may procure design-bid-build services through means of sealed bidding or competitive negotiations. These services must be procured in a manner that conforms to applicable state and local law, the requirements of this Circular relative to the method of procurement used and all other applicable federal requirements.
- h. Procurement of Design-Build. Grantees must procure design-build services through means of qualifications-based competitive proposal procedures based on the Brooks Act as set forth in Section 9e when the preponderance of the work to be performed is considered to be for architectural and engineering (A&E) services as defined in Section 9e, Qualifications-based competitive proposal procedures should not be used to procure design-build services when the preponderance of the work to be performed is not of an A&E nature as defined in Section 9e, unless required by State law.<sup>1</sup>
- i. Procurement By Noncompetitive Proposals (Sole Source). Sole Source procurements are accomplished through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate. A contract change that is not within the scope of the original contract is considered a sole source procurement that must comply with this subparagraph.<sup>2</sup>
- (1) Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids, or competitive proposals and at least one of the following circumstances applies:
- (a) The item is available only from a single source;
  - (b) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
  - (c) FTA authorizes noncompetitive negotiations—e.g., if FTA provides a joint procurement grant or a research project grant with a particular firm or combination of firms, the grant agreement is the sole source approval;
  - (d) After solicitation of a number of sources, competition is determined inadequate;  
or

- (e) The item is an associated capital maintenance item as defined in 49 U.S.C. §5307(a)(1) that is procured directly from the original manufacturer or supplier of the item to be replaced. The DTA will certify in writing to FTA:
  - 1 that such manufacturer or supplier is the only source for such item; and
  - 2 that the price of such item is no higher than the price paid for such item by like customers.
- (2) A cost analysis, i.e., verifying the proposed cost data, the projections of the data, and the evaluation of the specific elements of costs and profit, is required.

### 3.1 FORMAL BIDDING REQUIREMENTS

Either formal bids or competitive negotiations are required for all purchases over the lowest federal or state statutory threshold for formal bids (\$ currently \$150,000 under federal guidelines). Specifications shall be prepared by the appropriate department head. Invitations for bid shall be advertised and solicited in writing from all vendors on the appropriate bidders let by the Finance Director or their designee. Vendors shall be allowed a reasonable amount of time to respond to the invitation for bid. Cost estimates with support data will be signed and entered into the project folder.

Written Procurement Selection Procedures. Grantees shall have written selection procedures for procurement transactions. All solicitations shall:

- (1) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features that unduly restrict competition. The description may include a statement of the qualitative nature of the material, product, or service to be procured and when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use.  
  
Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured, and when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. 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 a procurement. The specific features of the named brand which must be met by offerors shall be clearly stated.
- (2) Identify all requirements that offerors must fulfill and all other factors to be used in evaluating bids or proposals.



### **3.2 EMERGENCIES**

The formal procurement process may be bypassed to make purchases in a bona fide emergency. An emergency is defined as a real and present threat of great injury to employee welfare, DTA property, or the provision of transit service, which can reasonably be expected to be alleviated by the purchase in question. Examples are restoration of the roof following a natural disaster, or purchase of a major bus component when there are no available spares and service will be interrupted.

### **3.3 SAFEGUARDING SEALED BIDS**

Sealed bids will be received by the Finance Department unopened and retained until the scheduled bid opening day.

### **3.4 TABULATING BIDS**

Bids will be opened in the presence of at least one witness, tabulated on a bid tabulation sheet, and retained by the appropriate Department.

### **3.5 IDENTICAL BIDS**

In the unlikely event that identical bids are received, the Duluth Transit Authority management will consider quality and deliverability and make a selection it considers to be in the best interest of the Duluth Transit Authority.

### **3.6 DETERMINATION OF SUCCESSFUL BIDDERS**

Contracts will be awarded to the lowest responsive and responsible bidder. Accordingly, price will be an important, but not sole consideration in the selection of a successful bidder. In making its recommendation to the Duluth Transit Authority Board of Directors, management will consider the responsiveness and responsibility of the bidders, product quality, and the previous experience of the Duluth Transit Authority, other transit properties and/or other customers of the bidders.

### **3.7 LIFE CYCLE COSTING**

Life cycle costing is the measurement of the total cost of a product over its service life, including maintenance, special features, cost for tools or installation, and expected useful life span. As a general principle, life cycle costing shall be applied to purchases by the Duluth Transit Authority when practical. In vehicle maintenance, for instance, brake linings costing 25% more but lasting 50% longer, are lower in life cycle cost and are products of choice, other things being equal. Life cycle costing also includes environmental sustainability.

Duluth Transit Authority reserves the right to apply life cycle costing to purchases in the formal bidding process, and bidders should be prepared to provide such information as may be necessary to perform such an analysis.

### **3.8 PROPER SPECIFICATIONS**

**3.8.1 Solicitations.** The following standards apply to solicitations:

**3.8.1.1 Clear Descriptions.** A clear and accurate description of the technical requirements for the material, product, or service to be procured is required.

**3.8.1.2 Nonrestrictive Specifications.** In competitive procurements, the description may not contain features that unduly restrict competition. No exclusionary or discriminatory specifications.

**3.8.1.3 Quality Requirements.** A description may include a statement of the qualitative nature of the material, product, or service to be procured and, when necessary, describe minimum essential characteristics and standards to which the property or services must conform if it is to satisfy the recipient's intended use.

**3.8.1.4 Preference for Performance Specifications.** The Common Grant Rule for governmental recipients advises the recipient that "[d]etailed product specifications should be avoided if at all possible." The Common Grant Rule for non-governmental recipients advises the recipient to describe technical requirements in terms of "functions to be performed or performance required, including the range of acceptable characteristics or minimum acceptable standards".

**3.8.1.5 Brand Name or Equal.** When it is impractical or uneconomical to write a clear and accurate description of the technical requirements of the property or services to be acquired, a "brand name or equal" description may be used to define the performance or other salient characteristics of the property or services sought. The specific features or salient characteristics of the named brand which must be met by offerors of "an equal" proposal must be clearly stated.

### **3.9 CONTRACT COST AND PRICE ANALYSIS FOR EVERY PROCUREMENT ACTION.**

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

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

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

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

- c. Profit. The DTA will negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration will be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.
- d. Federal Cost Principles. Costs or prices based on estimated costs for contracts under grants will be allowable only to the extent that costs incurred or cost estimates included in negotiated prices are consistent with Federal cost principles.
- e. Cost Plus Percentage of Cost Prohibited. The cost plus a percentage of cost and percentage of construction cost methods of contracting shall not be used.
- f. There will be no advance payments for any DTA procurements.
- g. The DTA can use progress payments as long as they are tied to actual work completed and/or supplies used. The DTA must obtain adequate security for the work accomplished. On projects over ~~\$75,000~~ \$150,000 the performance bond meets this requirement.
- h. The DTA may use progress payments provided the following requirements are followed:
  - a. Progress payments are only made to the contractor for costs incurred in the performance of the contract.
  - b. When progress payments are used, the DTA must obtain title to property (materials, work in progress, and finished goods) for which progress payments are made. Alternative security for progress payments by irrevocable letter of credit or equivalent means to protect the DTA's interest in the process payments may be used in lieu of obtaining title.

### **3.10 SECURITY (BONDS)**

**3.10.1 Bonding.** The Common Grant Rules require bonds for all construction contracts exceeding the simplified acquisition threshold unless FTA's bonding policies are as follows:

**3.10.1.1 Bid Guarantee.** Each bidder must provide a bid guarantee equivalent to 5 percent of its bid price. The "bid guarantee" must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid to ensure that the bidder will honor its bid upon acceptance.

**3.10.1.2 Performance Bond.** The DTA requires the third party contractor to obtain a performance bond for 100 percent of the contract price for all projects over \$150,000 in cost (). A "performance bond" is obtained to ensure completion of the obligations under the third party contract.

**3.10.1.3 Payment Bond.** The Common Grant Rules generally require the third party contractor to obtain a standard payment bond for 100 percent of the contract price. A "payment bond" is obtained to ensure that the contractor will pay all people supplying labor and material for the

third party contract as required by law. The following minimums shall apply for DTA projects:

- 3.10.1.3.1** Less Than \$1 Million. Fifty percent of the contract price if the contract price is not more than \$1 million,
- 3.10.1.3.2** More Than \$1 Million but Less Than \$5 Million. Forty percent of the contract price if the contract price is more than \$1 million but not more than \$5 million, or
- 3.10.1.3.3** More Than \$5 Million. Two and one half million dollars if the contract price is more than \$5 million.

### **3.11 LIQUIDATED DAMAGES PROVISION**

In accordance with FTA circular C4220.1F, Duluth Transit Authority shall determine whether or not use of a liquidated damages provision is appropriate for each specific procurement. The amount of liquidated damages must be reasonable to compensate Duluth Transit Authority for possible damages and not be so large as to be construed as a penalty. Duluth Transit Authority should not include such provisions in a contract unless:

- 3.11.1 The time of delivery is of such importance that Duluth Transit Authority can reasonably expect to suffer damage if the delivery is delinquent;
- 3.11.2 Duluth Transit Authority determines that the delivery schedule is reasonable at the time of award; and
- 3.11.3 Damages would be difficult or impossible to establish.

If the Duluth Transit Authority determines that a liquidated damages clause is necessary in a contract, it shall document the derivation of the rate of assessment and ensure it is reasonable and proper. Damages recovered must be credited to the FTA project.

### **3.12 PURCHASES LESS THAN THE THRESHOLD FOR FORMAL BIDS**

Duluth Transit Authority's purchasing procedures for expenditures below the formal bid threshold are intended to maximize system responsiveness to valid needs for goods or services, while optimizing the cost-effectiveness of public funds expended. The solicitation of competitive prices from at least two reputable and reliable sources (as determined by the Finance Department) is considered fundamental to this process and will be utilized in all purchases exceeding \$500.00 (one reputable and reliable source is considered sufficient for purchases less than \$500.00). Appendix 2 indicates the number and type of quotations that are required at various dollar levels by the Finance Department in order to efficiently satisfy the requestor's needs. Appendix 1 indicates authorized management approval levels for routine purchases.

Since significant cost savings may often be realized by formally bidding those requirements below the threshold, Department Managers will identify to the Finance Director those non-inventory planned purchases with a one-time or expected rolling 12 month cumulative cost of \$500 or more during the annual budget planning process. This practice affords the opportunity

to increase buying power and decrease administrative processing requirements by grouping similar items for formal advertising.

- 3.12.1 Routine Purchases – When the need for a routine good or service is identified (office copier supplies, subscriptions, etc.), the item will be submitted on a Purchase Order with appropriate signatures (Appendix 1) to the Finance Department for processing. Two days should be allowed for most purchases. “Routine purchases” less than the statutory threshold for formal bids should be made by the Finance Department; however, if the using department request to make the purchase and subject to approval of the Finance Department, the using department shall comply with all purchasing policies and procedures (e.g., proper approval levels, competitive pricing, etc.) prior to the Finance Department committing Duluth Transit Authority funds.

Material and supplies which are used on a recurring basis will be stocked in the storeroom, if substantial discounts can be obtained through quantity purchases or if operating advantages occur.

Material and supplies which are used on a recurring bases but do not warrant being stocked items, will be entered into the inventory system with a zero balance. Departments having a need for such items may then acquire them by a telephone request to the Storeroom rather than having to initiate a Purchase Request each time the need arises. (Also see Section 3.4, Petty Cash Purchases).

- 3.12.2 Emergency Purchases – An emergency is defined as a real and present threat to employee welfare, Duluth Transit Authority property, or the provision of transit service, which can reasonably be expected to be alleviated by the purchase in question. Emergency situations will be handled on a case-by-case basis. However, the Finance Director will coordinate necessary pricing and issue a purchase order to satisfy the requirement.

During normal business hours, the requirement will be addressed to the appropriate approval level (see Appendix 1) and the Finance Director. The Finance Director will coordinate necessary pricing and issue a purchase order to satisfy the requirement.

After normal business hours, the senior person present will determine whether or not the situation may be resolved during the next business day. IF NOT, an attempt will be made to obtain price quotations from two or more reputable sources. A fully documents purchased request will be initiated on the next business day and forwarded, with appropriate approval signatures, to the Finance Department for processing. Sound, responsible judgement is expected. In no instance will a commitment be made that exceeds approval levels shown in Appendix 1. Emergency purchases of \$5,000 value or more require Board approval, even though the approval may come after the emergency action is taken.

- 3.12.3 Special Purchases – A “special” purchase is one in which the Finance Department’s activities must be supplemented by additional involvement of the requesting department. In most cases, a “special” purchase will require an extra personal contact

between the using department and the vendor. Below are a few examples of the type of purchases which could be classified as “special”:

- \* Advertisement and related services
- \* Legal assistance, professional services
- \* Medical services
- \* Equipment repair (e.g.: use of outside vendor to repair tools, test equipment, compressors, motors, forklifts, etc.)
- \* Equipment rental
- \* Consulting, personal, and technical services, insurance
- \* Special printing and/or binding requirements (not normal in nature)
- \* Special photography
- \* Building maintenance part/materials
- \* Certain bus, automobile, and truck parts (not stocked in inventory)
- \* Banquet hall and/or food service
- \* Private investigators, Workers’ Compensation assistance
- \* Test materials
- \* Shipping (UPS, Common Carrier, Federal Express, etc.)

For purchases defined as “special” which cost below the threshold for formal bids, price competition shall be sought under the provisions of Appendix 2 in order to ensure that Duluth Transit Authority receives the best value for its purchasing dollars. However, there may be instances in which good business sense dictates that competition may be impractical and a reputable source should be used. For example:

- \* An advertisement needs to be put into a specific newspaper or magazine, plus the website.
- \* A piece of equipment needs repair by an outside vendor and the item requires a tear-down by the vendor in order to identify the defect(s).
- \* The maintenance department is to work on a repair job and the parts/materials required to complete the job cannot be easily identified prior to starting. Parts/materials which can be reasonably expected to have been requisitioned prior to the repair job are not exempt from competitive pricing.
- \* Materials for testing. These types of materials are exempt from competitive pricing, except when the exact type product is known to be supplied by another source. Generally, only one purchase should be made of the product and at a quantity to perform an adequate test.
- \* Shipping. Generally, shipping is exempt from competitive pricing.

The use of special purchases does not relieve the department or Duluth Transit Authority of any of the requirements imposed by Federal, State, and local laws as well as the Duluth Transit Authority’s policy. **PURCHASE COMMITMENTS MAY NOT BE MADE PRIOR TO THE PROCUREMENT DEPARTMENT’S APPROVAL AND THE ISSUANCE OF A PURCHASE ORDER NUMBER.**

Furthermore, the Duluth Transit Authority's commitment to the use of DBE vendors, whenever possible, becomes an added responsibility for the using department (see department DBE goals).

The Purchase Request form, when submitted to the Finance Department, shall have clearly stated "SPECIAL PURCHASE", the total purchase cost, and the appropriate signature(s). It should have attached, if the cost is greater than \$250, a tabulation sheet to indicate price competition, or a clear explanation if competition was not sought.

The Department Head should review, at least every six months, the items which have been classified as "SPECIAL PURCHASES" with the Procurement Manager in order to determine the practicality of establishing a long-term blanket purchase order or contract.

### **3.13 BLANKET PURCHASE ORDERS**

Some services and material are required on short notice, but on a fairly predictable basis (e.g., towing, electrical, fuel). Blanket purchase orders will be placed with vendors of such items by the Finance Department based on quotes for units of service or quantities to be provided, specifying duration and dollar ceiling. Blanket orders are subject to established competition guidelines. Department Heads have the responsibility of making sure releases do not exceed the limit of the blanket orders.

Department heads may authorize releases against blanket purchase orders by giving the vendor the purchase order number and release number from the blanket purchase order release form via telephone.

When the service has been completed or the materials received, the original copy of the release will be attached to the assigned work order showing the quantity and nature of the service performed or materials received, and then sent to the Finance Department. The second copy of the release should be forwarded to Accounts Payable. This copy, in effect, notifies Accounts Payable that vendor's invoice may be paid. The third copy should be retained in the department files and attached to the department copy of the blanket purchase order.

Existing blanket purchase orders will be reviewed for cost-effectiveness at least on an annual basis by the Finance Department.

### **3.14 PETTY CASH PURCHASES**

The Purchasing of small dollar value, non-inventory items, \$10.00 or less will be accomplished through the use of petty cash.

The petty cash account is intended to satisfy immediate, small dollar needs. Any purchase made through the petty cash account must be approved by the Department Head and Finance Director and supported by appropriate receipts. See Appendix 5 for Petty Cash Policy.

### **3.15 VERBAL PURCHASE ORDERS**

Duluth Transit Authority recognizes that circumstances occasionally require rapid response to an immediate requirement, e.g., an important tool breaks and must be replaced as soon as possible to avoid wasted production time. In such instances, the Cost Center or Department Manager may request that a verbal purchase order be provided telephonically from the Finance Department, contingent upon the immediate follow up of a fully-documented Purchase Request. This procedure demands sound judgement and close managerial scrutiny to assure that the best price is obtained and appearances of conflicts of interest are avoided.

### **3.16 CONTRACTUAL PURCHASES**

This applies to procurements for materials, supplies, and/or services, which are under a preassigned contract with a vendor. It shall be the responsibility of the Finance Department to coordinate with the using department, as to how the procurements or releases will be facilitated.

### **3.17 CHANGE ORDERS**

Request to alter an existing contract, e.g., scope, delivery, or technical requirements, must be processed through the Finance Department prior to vendor notification. The Director of Finance Department will assume full coordination responsibilities for the administration of such changes to assure compliance with Federal, State, and local laws, regulations, and policies.

### **3.18 CAPITAL PURCHASES**

A capital purchase is for non-repair part costing more than \$500.00 and expected to last more than one year. Such purchases and any purchases made under the grant may be subject to special conditions. All capital purchases, whether they are made with operating or capital funds, are “fixed assets” as defined by the Duluth Transit Authority fixed asset system policies manual. As such, all capital purchases must follow the procedures established by the fixed asset manual for the purchase and control of fixed assets.

### **3.19 CONSTRUCTION CONTRACTS**

Duluth Transit Authority is subject to the requirements of the Davis-Bacon Act. Under them the advertised specifications for every Duluth Transit Authority contract in excess of \$\$2,000 for construction, alteration, and/or repair, including painting and decorating, of public buildings or public works which requires or involves the employment of mechanics and/or laborers must contain a provision stating the minimum wages to be paid to them based upon determinations by the Secretary of Labor of local prevailing wage rates for comparable work. The rates must be posted at the site, and the wages must be paid in full no less often than weekly.

A copy of the determination of the Secretary of Labor must be included in each solicitation and the award of each contract must be conditioned upon the contractor accepting the terms of it.



Duluth Transit Authority as an FTA grantee must report all reported or suspected violations to the FTA.

All mechanics and laborers employed directly upon the site of a building or work are covered regardless of any contractual relationship, which may exist or may be alleged to exist between a contractor or subcontractor and the laborers or mechanics.

The terms “construction, alteration, and/or repair” mean all types of work done on a particular building or work at the site thereof, all work done in the construction or development of the project, including without limitation, altering, remodeling, installation (where appropriate) on the site of items fabricated off-site, painting and decorating, the transportation of materials, and supplies to or from the building or work by the employees of a construction contractor of the construction subcontractor, and the manufacturing or furnishing of materials, articles, supplies or equipment to the site by persons employed by a contractor or subcontractor.

The terms “building or “work” generally include construction activity as distinguished from manufacturing, furnishing materials, or servicing and maintenance work. The terms include without limitation buildings, structures and improvements of all types, such as plants, streets and highways, subways, sewers, mains, power lines, railways, rehabilitation and reactivation of plants, scaffolding, excavating, clearing and landscaping.

The manufacturing or furnishing of supplies is not a “building” or “work” unless conducted in connection with and at the site of such a building or work.

In case of doubt, consult the Finance Director.

### **3.20 BUDGET COMPLIANCE**

Budget compliance is the responsibility of each department head. Prior to the preparation of a purchase requisition, each department head should ensure that the purchase is appropriate to his/her budget, and that funds are available for this and other expected purchases.

### **3.21 CONTRACT ADMINISTRATION**

The Director of Finance, serving as the Procurement Officer, provides oversight of the Contract Administration process. The purpose of these contract administration procedures is to ensure that the DTA and the contractor have complied with the terms of the contract and any applicable grant requirements or federal state or local funding requirements are met.

Each type of procurement may have different contract administration requirements, depending on the type of contract (supply, construction, services, etc.) The Director of Finance may determine that some elements of the contract record may be automated.

Contract Administration requirements include, but are not limited to:

- \* Bonds have been submitted, as required
- \* Executed contracts, notice of award and contract-related documentation is prepared.
- \* Contractual issues requiring the approval of the Procurement Officer or designee have been submitted and approved.
- \* All required insurance documentation is submitted (as required);

- \* Preparation of post award or pre-performance correspondence as necessary, including governmental agency correspondence;
- \* Preparation of Notice to Proceed (as applicable)
- \* Approvals or disapprovals of any required contract submittals, requests for waivers or deviations from contractual requirements;
- \* Documentation of subcontractors, Good Faith Efforts for DBE participation, flow down provisions, etc. (as applicable);
- \* Track retainage, prompt payment approval of subcontractor awards (as applicable), etc.;
- \* Preparation of contract modifications or changes, including the rationale for the change, change orders issued, documentation reflecting any time and/or increases to or decreases from the contract price as a result of those modifications;
- \* Documentation regarding settlement of claims and disputes including, as appropriate, results of audit and legal reviews of the claims and approval by the proper authority of the settlement amount;
- \* Documentation regarding stop work and suspension of work orders, termination actions, whether by convenience or default, and liquidated damage claims;
- \* Documentation regarding contract close out.

Contract Change Orders will be administered by the Director of Finance, or designee. The Director of Finance or designee, shall determine, in collaboration with the project manager and DTA staff, whether a proposed change is within the general scope of the contract or a cardinal change in the contract. If additional funds are required, the Director of Grants and Planning shall determine the funding source.

A price analysis or cost analysis shall be performed on contract change orders in accordance with the policy herein.

The Director of Finance or designee shall manage subcontractor documentation, including assurances that the price contractor has included all flow-down provisions, monitor DBE participation and compliance (as applicable), and to ensure prompt payment compliance.

The Director of Finance shall coordinate with the Disadvantaged Business Enterprise Liaison Officer to ensure compliance with the DTA's Small and Disadvantaged Business Enterprise Policy.

## **SECTION IV – BID PROTESTS**

### **4.0 GENERAL**

Protests will only be accepted from prospective bidders or offerors whose direct economic interest would be affected by the award of a contract or refusal to award a contract. The General Manager will consider all such protests, whether submitted before or after the award of a contract. If oral objections are raised and the matter cannot be resolved to the satisfaction of the objector, a written protest shall be required before any further consideration is given.

Protest submissions should be concise, logically arranged, and clearly state the grounds for the protest. Protests must include at least the following information:

- \* Name, address, and telephone number of protestor
- \* Identification of the solicitation or contract number
- \* A detailed statement of the legal and factual grounds of the protest including copies of relevant documents
- \* A statement as to what relief is requested.

All protest documents received by the General Manager shall be stamped with date and time received and logged into a file folder with a copy to the Master File.

#### **4.1 PROTESTS BEFORE AWARD**

Protests before award must be submitted within the time as specified in the solicitation documents. If the written protest is not received by the time specified, evaluation process shall continue in the normal manner unless the Finance Director, upon investigation, finds that remedial action is desirable, in which even such action shall be taken.

The protests addressing the adequacy of Invitation for Bids, RFPs, including, without limitations, the pre-award procedure, the Instructions to Bidders, General Terms and Conditions, Specifications and Scope of Work, must be filed at the Finance Department no later than three days before the scheduled bid opening date. Thereafter, such issues are deemed waived by all interested parties.

Notice of protest and the basis therefore shall be given to all bidders or offerors. In addition, when a protest against the making of an award is received and the Finance Director determines to withhold the award pending disposition of the protest, the bidders whose bids might become eligible for award shall be requested, before expiration of the time for acceptance of their bids, to extend the time for acceptance (with consent of sureties, if any) to avoid the need for readvertising.

When a written protest against the making of an award is received, award shall not be made until five days after the matter is resolved, unless the General Manager determines that:

- \* The items to be procured are urgently required; or
- \* Delivery or performance will be unduly delayed by failure to make the award promptly; or
- \* Failure to make prompt award will otherwise cause undue harm to the Duluth Transit Authority or the State or the Federal Government.

The General Manager shall inform FTA of such a protest if Federal funds are involved.

If award is made, the Finance Director shall document the file to explain the need or an award, and shall give written notice of the decision to proceed with the award to the protestor and, as appropriate, to other concerned.

#### **4.2 PROTEST AFTER AWARD**

Protests against award must be filed at the Finance Department within five days immediately following the award. The protests shall be reviewed by the Finance Director. The contractor shall be furnished with the notice of protest and the basis therefore. Also, when it appears likely that an award may be invalidated and a delay in receiving the supplies or services is not prejudicial to Duluth Transit Authority's interest, the Finance Director shall inform the contractor that Duluth Transit Authority will not be responsible if the award is set aside and that the contractor proceeds with performance at his/her own risk. The General Manager shall inform FTA of such a protest if Federal funds are involved.

#### **4.3 DECISION ON PROTEST**

The General Manager shall render his/her decision in writing within 14 days from the receipt of the written protest and shall provide written notice of such decision to all interested parties.

Following an adverse decision by the General Manager, the protestor may file a protest with the FTA. For details, see FTA Circular 4220.1F, as amended, which states that the FTA will only review protests when there is a failure to have or follow its protest procedures, a failure to review a complaint or protest; or violations of Federal law or regulation.

## **CHAPTER TWO CONTINUING CONTROL**

### **SECTION V – PROPERTY DISPOSAL PROCEDURES**

#### **5.0 GENERAL**

##### **5.0.1 Applicability**

This section applies to the disposition of all real and personal property owned by the Duluth Transit Authority.

##### **5.0.2 Conflict of Interest**

No commissioner, officer, employee, or agent of the Duluth Transit Authority during his/her tenure or for one year thereafter shall have any interest, direct or indirect, in any Duluth Transit Authority disposition or the proceeds therefrom.

#### **5.1 REAL PROPERTY**

Disposition of any real property shall be in compliance with applicable Federal and State laws and regulations. However, all real property shall be disposed of by resolution of the Board of Directors.

#### **5.2 PERSONAL PROPERTY**

##### **5.2.1 General**

Property with an original acquisition value greater than \$10,000 and any bus deemed to be surplus, obsolete, scrap, or salvage may be disposed of by public auction or private sale after authorization by a majority vote of the Duluth Transit Authority Board. Annually, or as needed, the Board shall receive a summary of all surplus, obsolete, scrap, or salvage items sold and the proceeds for each.

##### **5.2.2 Surplus Obsolete Property**

Property deemed to be surplus or obsolete may be sold either at a public auction or private sale, but the General Manager must use a method that will obtain the highest sale price for the property sold.

For surplus or obsolete property being sold by private sale, the General Manager shall obtain two or more quotations, if possible, and dispose of the property to the highest bidder. If only one quotation is obtained, the General Manager may sell the property to the sole bidder.

##### **5.2.3 Scrap Salvage Property**

The General Manager may dispose of scrap or salvage property as deemed necessary in any manner that may be appropriate as approved by the FTA.

## **5.3 FEDERALLY FUNDED PROPERTY**

### **5.3.1 General**

This section refers to any property funded wholly or partially by the Federal Transit Administration.

### **5.3.2 Real Property**

The General Manager shall request disposition instructions from the FTA. However, actual disposition of such property shall be authorized by Board Resolution.

The General Manager shall dispose of any items having a unit acquisition cost of less than \$5,000 in accordance with Part III of this section.

For items having a unit acquisition cost of \$5,000 or more, the General Manager shall dispose of such items upon instructions or approval from the FTA.

For items having a unit acquisition cost of \$5,000 or more and where the FTA has agreed in writing that the existing fair market value is less than \$5,000, the General Manager may dispose of such items in accordance with Part III of this section.

## **5.4 RETENTION OF RECORDS**

All records relating to the sale shall be retained in an appropriate file for a period of three years after grant closeout or until audited, if that occurs later.

## **SECTION VI – INVENTORY CONTROL AND MAINTENANCE PURCHASING**

### **6.0 INVENTORY CONTROL**

Inventory control is the responsibility of the Inventory Specialist under the direction of the Director of Maintenance. There are three categories of stock item orders:

#### **6.1 INVENTORY REORDER REPORT**

The majority of stock items will be controlled by the automated inventory control system, under the supervision of the Director of Maintenance. The Director of Maintenance will receive the daily inventory reorder report, make any necessary adjustments, date and initial it, and forward it to the Finance Department.

##### **6.1.1 Setting Minimum and Maximum**

Setting inventory control levels for the automated system is the responsibility of the Inventory Specialist, with the advice of the purchasing and maintenance staff, and within the framework of the inventory policy, as set forth below.

The purpose of maintaining an inventory is to reduce costs through volume purchases and support a smooth maintenance function. The minimum level provides a supply of stock during the reorder cycle (from issuing a purchase order through delivery). The minimum level should be set at a level approximately equal to 133% of the quantity used during the reorder cycle.

For instance, if the normal rate of use for a unit is six per month and the item can be obtained in two weeks, then the quantity used during the reorder cycle is three, and the minimum is set at four. If the reorder cycle takes six weeks, then the quantity used during the period is nine, and the set minimum is 12.

The maximum level controls the frequency of ordering. The higher the maximum, the higher the cost of carrying inventory. The lower the maximum, the more frequent orders and therefore the higher the ordering cost and the more frequent the risk of stock outages. The maximum level should be set in general, at the minimum plus a three months supply.

This will generally require orders to be placed about four times per year. Reorder quantity is simply the maximum less the quantity on hand when the order is placed. For items having yearly usage value of \$100.00 or less, one annual purchase should be made in order to reduce processing costs.

Items with an historical or projected use rate of less than four per year will not generally be stocked. However, there are some items which are seldom used, but which are critical to operations and difficult to obtain. For these items, minimum and maximum are both set at once. The Inventory Specialist shall determine which items fall into this category under the direction of the Director of Maintenance.

### 6.1.2 Reviewing Minimum and Maximum

The Inventory Specialist shall review minimum and maximum, consultation with the Director of Maintenance, on an ongoing basis. Changes shall be based on usage histories for the full previous year and the year to date information available. The Finance Director shall provide counsel on reorder cycles and stock item availability.

## 6.2 MAINTENANCE CAMPAIGNS

From time to time, the Director of Maintenance will determine the need for a maintenance campaign. As far in advance as possible, the Director of Maintenance or his/her designee should notify the Inventory Specialist of items to be reordered for the campaign. These items will be special ordered by the Inventory Specialist through the normal purchasing procedures and the inventory minimum and maximum will not be adjusted.

## 6.3 SEASONAL ITEMS

Certain items (e.g., air conditioner components) experience a seasonal variation in demand. Average consumption over a whole year will not provide adequate guidance to set minimum levels during the high demand period, and using the high demand rate year round will inflate the inventory level.

In the spring and the fall, when inventory levels are reviewed by the Maintenance Director and the Finance Director, seasonal items will also be reviewed and either:

6.3.1 Special one-time order will be placed without changing the inventory control levels; or

6.3.2 The minimum and maximum will be adjusted up or down for the following six month period to reflect the changed level of demand.

## 6.4 CAPITAL ASSETS

Every other year the Director of Finance shall conduct an inventory of all capital and/or fixed assets of the DTA in accordance with FTA Circular 5010.1C. This inventory will take place in the even numbered years. The requirements for a biennial physical inventory and other control measures also apply to equipment that is leased or provided to a service contractor.

All equipment with a value in excess of \$5,000 shall be included.

At a minimum the data collected during the inventory shall include:

Description, I.D. Number, Acquisition Date, Cost, Federal Percentage, Grant Number, Location, Use and Condition, Disposition Action, Vested Title.

Any discrepancies in the inventory shall immediately be reported to the General Manager and the Director of Finance.



## **SECTION VII – RECORD RETENTION**

### **7.0 PURCHASE ORDERS**

Purchase orders, plus attached requisitions and quotations, shall be retained for at least seven (7) years from the date on which they are closed.

### **7.1 CONTRACTS**

Contracts, plus all related documentation, shall be retained for at least seven (7) years from the date on which they are closed.

Section .36(b)(9) of the Common Rule requires grantees to maintain records sufficient to detail the significant history of procurement. These are to include, but are not limited to, the rationale for the method of procurement, the selection of the contract type, the reason for contractor selection or rejection, and the basis for the contract price. Contractor rejection is particularly important to document.

## CHAPTER FOUR GRANTS MANAGEMENT

### SECTION 8 – GRANT MANAGEMENT AND FEDERAL FUND TRANSFERS

#### Grant Process

As Necessary	DOA prepares list of grant applications for GM Approval DTA Board approves applications TEAM submittal by DOA
Quarterly	Department Heads review grants and status of projects and comment on future projects Twice annually or as needed FTA reports and FSRs submitted to TEAM by DOA
Grant Closeouts	By DOA after review by GM and DOF
Annually	Duluth City Council approves the acceptance of grants and submittal of grants
Grant Executions	DTA GM
Annual Certifications & Assurances	DTA GM

#### Grant Money Requests (ECHO)

Done as needed as per projects.  
Invoice approved by Project Manager  
Overall ECHO request approved by GM  
ECHO submittal by DOF

### SECTION 9 - PROCUREMENT GUIDELINES – INVITATION FOR BIDS (IFB)

The following steps are necessary for purchases that meet or exceed the threshold for formal proposals. Under normal circumstances, the requestor should allow one month after the provision of technical specifications. Purchases that are non-grant funded and/or less than the threshold may be facilitated more quickly. All planned purchases exceeding \$25,000, based on rolling 12 months usage, will be projected during the budgeting process in the annual procurement plan.

- |    |  |   |
|----|--|---|
| 1. | <u>INITIATE PURCHASE</u><br>* Review annual procurement plan<br>* Write and obtain signatures for purchase request<br>* Write specifications for IFB<br>* Suggested list of suppliers<br>* Set up meeting with Finance Director deliver all of the above | <u>STAFF RESPONSIBLE</u><br>* Requestor/Department Head<br>* Requestor<br><br>* Requestor<br>* Requestor/Finance<br>* Requestor |
| 2. | <u>INVITATION TO BID</u><br>* Determine method of procurement<br>* Establish time frame: bids due, conference, etc.  | <u>STAFF RESPONSIBLE</u><br>* Finance Dir./Project Mgr./GM<br>* Requestor/Finance   |

	* Draft IFB	* Finance Dept.
	* Release IFB	* Finance Dept.
	* Prebid conference	* Finance Dept.
3	<u>REVIEW OF BIDS</u>	<u>STAFF RESPONSIBLE</u>
	* Formal bid opening	* Finance Dept.
	* Recommend contractor	* Finance Dept.
	* Lowest responsive and responsible bidder	
	* Sample Contract – specifications, terms (if required)	* Finance
	* General Mgr. Approval of selection	* General Manger
	* FTA approval of selection if other than lowest bidder or if single source	* Procurement Manager
	* Legal review (if necessary)	* Procurement Manager
	* Duluth Transit Authority Board approval of contract	* Procurement Manager
	* Contract execution and distribution	* Procurement Manager
4	<u>BILLING PROCESS</u>	<u>STAFF RESPONSIBLE</u>
	* Approval of contractors, invoice	* Project Manager – Finance Director
5	<u>QUARTERLY REPORTING</u> (grant funded only)	<u>STAFF RESPONSIBLE</u>
	* Financial Forms	* Director of Grants or Finance Director
	* Budget revisions	* Director of Grants

**SECTION 10 PROCUREMENT GUIDELINES –REQUEST FOR PROPOSAL (RFP)**

The following steps are necessary for purchases that meet or exceed the threshold for formal proposals. More than one month may be required, depending upon the complexity of the proposal. Proposals that are non-grant funded and/or less than the threshold may be facilitated more quickly, however, all planned proposal exceeding \$10,000.00 will be projected during the budgeting process in the annual procurement plan.

1.	<u>INITIATE PROJECT</u>	<u>STAFF RESPONSIBLE</u>
	* Review annual procurement plan	* Project Mgr./
	* Write purchase request	* Department Director
	* Write scope of work for RFP	* Project Mgr./
	* Suggested list of consultants/suppliers	* Project Mgr./ Finance Dir.
	* Set up meeting with Finance Director deliver all of the above	* Project Mgr./
2.	<u>REQUEST FOR PROPOSAL</u>	<u>STAFF RESPONSIBLE</u>
	* Determine method of procurement	* Procurement Mgr./
	* Establish timeframe:	* Procurement.
	* RFP boilerplate	* Procurement Mgr.
	* Pre-bid audit (grant funded only)	* Procurement Mgr.

- \* Review of RFP
  - \* Release RFP
  - \* Pre-proposal conference
- \* Procurement Mgr.
  - \* Procurement Mgr.
  - \* Project Mgr./ Procurement Mgr/Finance Dirs.
- 3     REVIEW OF PROPOSALS
- \* Distribute copies of proposals
  - \* Evaluation and recommendations
  - \* General Manger approval of selection
- STAFF RESPONSIBLE  
  - \* Procurement Mgr.
  - \* . Committee and General Mgr.
  - \* General Manger
4.     PREPARING CONTRACT
- \* Contract negotiation (if competitive)
  - \* Sample Contract – scope of work, task budget
  - \* DTA Board approval of contract
  - \* Contract execution and distribution/P.O.
- STAFF RESPONSIBLE  
  - \*.Procurement Mgr/Finance Dir.
  - \*Procurement Mgr./Finance Dir.
  - \* Procurement Mgr.
  - \* Procurement Mgr.
- 5     BILLING PROCESS
- \* Internal salaries/timecards (if applicable)
  - \* Payment of contractors – invoice approval
- STAFF RESPONSIBLE  
  - \* Finance Dir.
  - \* Project Mgr, Procurement Mgr/Finance Dir.
- 6     REPORTING
- \* Federal Status Reports
- STAFF RESPONSIBLE  
  - \* Finance Director or Grants and Planning
- Director or designee
- 7     CLOSING OUT PROCEDURES  
(planning projects only)
- \* Final Report (distribution copies)
  - \* Final Forms
- STAFF RESPONSIBLE  
  - \* Grants and Planning Director
  - \* Grants and Planning Director

## APPENDIX 1 – APPROVAL LEVELS

The following represents required approval levels for all purchases (including routine, special, and emergency) made by Duluth Transit Authority employees. Approvals will be expressed via signatures on the purchase request form and/or other contractual instruments as necessary, prior to the commitment of Duluth Transit Authority funds.

<u>Approval Level</u>	<u>Authority</u>
\$ 00.00 - \$ 10.00	Cashier/Department Head signature required
\$ 10.01 - \$ 3,000.00	Department Head
\$3,000.01 – statutory	Department Head, Finance Director, General Manager

### Threshold for formal bids

Under \$3,000	Phone (or FAX) bids with a list of bidders and prices
\$3,000.01 to \$25,000	Fax Bids, two or more bidders required
Over \$25,000	Formal written or Electronic bid with printed notice
Over \$175,000	Add <u>performance</u> bonding requirements.
Over \$150,000	Add Buy America
Construction Projects	Add Payment Bond Requirements

- 1 Less Than \$1 Million. Fifty percent of the contract price if the contract price is not more than \$1 million,
- 2 More Than \$1 Million but Less Than \$5 Million. Forty percent of the contract price if the contract price is more than \$1 million but not more than \$5 million, or
- 3 More Than \$5 Million. Two and one half million dollars if the contract price is more than \$5 million.

### RE: PROCEDURE FOR CONTRACTS AND THE SIGNING THEREOF

1. A contract for goods, supplies and/or services must be supported by a Duluth Transit Authority Board of Directors' resolution if it is \$50,000 or over.
2. Items costing more than \$50,000 require a resolution approved by the Duluth Transit Authority Board of Directors in which the General Manger is designated to sign the contract on behalf of the Duluth Transit Authority. The original signed contract is to be forwarded to the Administrative Secretary for filing in the contract file. A second original will be filed in the Finance Department. Copies of the contract and resolution may be obtained from the Duluth Transit Authority Administrative Secretary.
3. A contracted purchase of items or services costing less than \$50,000 will have the original contract given to the Finance Department so that it may be forwarded to the Master File.
4. The Director of Finance is authorized to sign contracts with a cost less than \$50,000 after receiving the approval of the General Manager.

## APPENDIX 2 – COMPETITION GUIDELINES

The competition guidelines expressed below apply only to purchases of less than the formal advertising and bid threshold (\$50,000 ). The Duluth Transit Authority staff will, however, routinely examine proposed expenditures in excess of \$3,000.00, based on rolling 12 months usage, to determine if cost savings may be realized through the formal bid process, without advertising. Candidates for competitive bidding will be included in the annual procurement plan.

1. Single line item purchases – less than \$500.00. Obtain quote and purchase from one reputable source.
2. Single line item purchases – more than \$500.00 but less than \$3,000.00. Two or more quotations will be obtained either by price book, written, email transmission, or facsimile. .
3. Over \$3,000 - Two or more quotations will be obtained either by price book, written, email transmission, or facsimile. Routinely, , the Director of Finance, or their designee will obtain these quotations.

For all types of purchases (routine, recurring, special, and emergency) less than the statutory threshold for formal bids, competition guidelines will be relieved when the purchase is known to be “sole source,” or when potential sources have been exhausted.

The following is applicable to “routine purchases” and “recurring purchases”. In the event of a true “coach down” situation or significant safety issue, if there is an immediate need for a part, multiple parts, or services in order to complete the job, price competition may be relieved. A reputable supplier who can deliver said item(s), at a competitive price, within the necessary time frame, may be used. Where practical, the “Competition Guidelines” should be followed.

The following is applicable to all purchases. In order to perform an adequate competitive cost comparison, delivery and/or freight charges, as well as taxes, if applicable, should be included in the purchase price, if possible.

## APPENDIX 3 – Sealed Bid Procedures

Either formal bids or competitive negotiations are required for all purchases over the statutory threshold for formal bids (\$) \$150,000. Specifications shall be prepared by the appropriate department head. Invitations for bid shall be advertised and solicited in writing from all vendors on the appropriate bidders let by the Finance Director or their designee. Vendors shall be allowed a reasonable amount of time to respond to the invitation for bid.

- (1) In order for sealed bidding to be feasible, the following conditions should be present:
  - (a) A complete, adequate, and realistic specification or purchase description is available;
  - (b) Two or more responsible bidders are willing and able to compete effectively for the business;
  - (c) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price; and
  - (d) No discussion with bidders is needed (other than a potential pre-bid conference for all potential bidders. In some cases this can be mandatory.
- (2) If this procurement method is used, the following requirements apply:
  - (a) The invitation for bids will be publicly advertised and bids shall be solicited from an adequate number of known suppliers, providing them sufficient time to prepare bids prior to the date set for opening the bids; minimum fifteen days – suggested thirty days
  - (b) The invitation for bids, which will include any specifications and pertinent attachments, shall define the items or services sought in order for the bidder to properly respond;
  - (c) All bids will be publicly opened at the time and place prescribed in the invitation for bids;
  - (d) A firm fixed-price contract award will be made in writing to the lowest responsive and responsible bidder. When specified in bidding documents, factors such as discounts, transportation costs, and life cycle costs shall be considered in determining which bid is lowest;  
  
Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and
  - (e) Any or all bids may be rejected if there is a sound documented business reason.

Written Procurement Selection Procedures. Grantees shall have written selection procedures for procurement transactions. All solicitations shall:

- (1) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive

procurements, contain features that unduly restrict competition. The description may include a statement of the qualitative nature of the material, product, or service to be procured and when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use.

Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured, and when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. 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 a procurement. The specific features of the named brand which must be met by offerors shall be clearly stated.

- (2) Identify all requirements that offerors must fulfill and all other factors to be used in evaluating bids or proposals.