



FINANCE DEPARTMENT PURCHASING DIVISION PROCUREMENT HANDBOOK

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Code of Conduct

The City of Fresno Purchasing Division subscribes to and accepts as its own the Standards of Purchasing Practice adopted by the California Association of Public Purchasing Officers (CAPPO).

- To regard public service as a sacred trust, giving primary consideration to the interests of the public agency that employs us.
- To purchase without prejudice, seeking to obtain the maximum value for each dollar expended.
- To avoid unfair practices, giving all qualified vendors equal opportunity.
- To honor our obligations and require that obligations to our public agency be honored.
- To accord vendor representatives courteous treatment, remembering that these representatives are important sources of information and assistance in solving our purchasing needs.
- To refuse to accept any form of commercial bribery, and prevent any appearance of so doing.
- To be receptive to counsel from our colleagues, and to cooperate with them to promote a spirit of teamwork and unity.
- To conduct ourselves with fairness and dignity, and to demand honesty and truth in the purchasing process.
- To strive for greater knowledge of purchasing methods and of the materials we purchase.
- To cooperate with all organizations and individuals involved in activities designed to enhance the development of the purchasing profession, remembering that our actions reflect on the entire purchasing profession.

Bidder	-	-	-	-	Company/Individual
Contractor	-	-	-	-	Bidder who bids on Public Works Projects
CAL-Card	-	-	-	-	The City's office purchase card, to make small dollar, non-repetitive purchases of materials, parts and supplies for their immediate needs up to \$2,500 per transaction. This amount may be increased, depending on need, to \$5,000. This amount was set as of July 16th, 2010 in Administrative Order 3-1 (4) (a)
EP	-	-	-	-	Emergency Purchase Order
Formal Bid	-	-	-	-	Sealed bid over an amount which is annually adjusted, currently \$133,000
Formal Bid Limit	-	-	-	-	Threshold at which the Charter applies, in September 2013 is \$133,000
Informal bid	-	-	-	-	Sealed bid under an amount which is annually adjusted, currently \$133,000
Open PO	-	-	-	-	A Purchase Order without competitive bidding for repetitive small purchases, with progress payments
Piggyback	-	-	-	-	Using a bid from another governmental agency without going through a City bidding process
Prebid Conference	-	-	-	-	Conference with bidders prior to bid opening, for formal and informal bids
Proposal	-	-	-	-	A submitted bidder's packet of information
Requirements Contract	-	-	-	-	Annual contract with a supplier/vendor, put in place through Purchasing, allowing direct contact from Division to Supplier
RFEI	-	-	-	-	Request for Expression of Interest ("loose RFP")
RFP	-	-	-	-	Request for Proposals (for services other than consulting)
RFQ	-	-	-	-	Request for Qualifications (for consulting services.) This is a decentralized process, as detailed under 6-19
Sole Source	-	-	-	-	Procurement of equipment which is only available from a single manufacturer or source
Supplier	-	-	-	-	Company/individual who supplies products
Vendor	-	-	-	-	Company/individual who supplies services
Walkthrough	-	-	-	-	Prebid conference for informal bids

An outline of services that Purchasing provides to all of the City of Fresno's departments.

Strategic Procurement	Supplier and Service Provider	Compliance
Achieving maximum value for each purchase	Building, Developing, and Supporting Relationships	Legal and Ethical
<p>Purchasing is responsible for the timely procurement of the very diverse needs of the City in supplies, materials, equipment services (excluding consulting services which are purchased directly by City departments).</p> <p>In the City of Fresno, Purchasing also bids all public works projects. The division is further responsible for the disposal of surplus inventory. Purchasing activities are governed by the City Charter and the Municipal Code.</p> <p>Purchasing's annual procurement volume is about \$195 million, which is facilitated by a staff team of 9 members, including management. Approximately 200 requirements contracts are in place to streamline procurement.</p>	<p>Advises customers on best and fastest procurement methods, lay-out and content of formal bid specifications and, if requested, provides on-site services to advise customers on a regular basis on procurement issues</p> <p>Partners with customers in the development and refinement of complex Requests for Proposals.</p> <p>Provides a handbook with procedures and maintains standardized bidding documents for use by customers.</p> <p>Facilitates problem solving between clients and vendors/contractors (excluding public works projects) during contract administration</p> <p>If needed, coordinates appeals hearings and represents the City.</p> <p>Offers online purchasing management system that allows vendors from all over the country to register online, to receive automated e-mail notices, to receive City solicitations for services and commodities, and to submit bids online.</p>	<p>The Purchasing Division is committed to provide prompt and effective procurement services which meet the needs of City departments, in accordance with the spirit and requirements of the City Charter and Municipal Code while affording equal access to all entities seeking to do business with the City of Fresno.</p> <p>The division strives to be valued and recognized as a provider of timely, high quality, low-cost procurement services to City departments to enable optimum efficiency and cost accountability.</p>

SUBJECT: FORMAL BID PROCEDURE

Purpose

To establish a uniform procedure regarding formal bids for products, equipment and public works projects when required by Fresno City Charter, Section 1208. The formal bid limit is adjusted every July 1st, implemented on August 1st, and will be communicated to departments by the Purchasing Manager. The formal bid limit is currently \$133,000, as of August 14, 2014.

Procedures

1. Development of bid specifications

The requesting division/department shall develop the technical specifications and the rest of the bid packet in accordance with the standardized bidding documents (“boilerplates”) by request from your assigned buyer, or Purchasing Administrative Staff. Boilerplates consist of pages in PDF format which are not to be changed by the customer, and “working pages” which require the customer’s input (for example the notice inviting bids, the bid proposal, etc.)

- a. Products and equipment. Technical specifications shall be as concise and exact as possible without being ambiguous or proprietary. They shall be written to solicit as many bids as possible from vendors who can deliver a product meeting the spirit and intent of the specification. City employees developing technical specifications may contact potential vendors to obtain technical data or industry standards, but are cautioned against accepting technical data that would result in a proprietary specification. It shall be City policy that vendors cannot bid on equipment, supplies, or construction projects if they prepared a substantial part of the specification.
- b. Public Works Projects which are federally funded. A copy of the Engineer’s Estimate shall be forwarded to the DBE Program Coordinator in the Purchasing Division to determine which boilerplate is to be used and if goals are to be set and at what level.

2. Routing of bid packets

- a. Products and equipment. Two copies, one printed and one electronic copy, of the completed bid packet shall be forwarded by the client division/department to Purchasing for approval, with a routing sheet and a legal authorization form for legal review of the bid packet (see Exhibits “1-A” and “1-B” in the Appendix, pgs.50 and 51). An electronic requisition number or a funding source will be referenced by the client in the routing sheet to allow for further processing. In addition to the hard copy, the client shall forward an electronic copy of the “working pages” of the bid and the technical specifications (if

available electronically) to the assigned buyer to facilitate electronic corrections.

- b. Public Works projects. Exceptions must be approved in advance by the Purchasing Manager or his/her designee. All bid specifications for public works projects shall first be routed to the Capital Management Division, Inspection/Surveying Services (formerly Construction Management) for approval as to wages and labor code compliance who, in turn, will forward the bid packet to Purchasing.

3. Approval of bid specifications

After approval by the Purchasing Manager or designee, which shall be evidenced by notation on the face of both copies of the bid packet, the Purchasing Manager or designee, shall forward both copies to the City Attorney's Office for approval as to form and legality. Such approval shall be evidenced by notation on the face of both copies of the bid packet. Following legal approval, both copies shall be returned to the Purchasing Manager. The Purchasing Manager shall forward one copy to the client division/department and retain one copy in the bid file. After receipt of approval of bid specifications, the client shall contact the assigned buyer for dates for a pre-bid conference, if applicable, and the bid opening.

4. Prebid Conference and bid opening dates.

Generally, bid openings for formal bids will take place on Tuesdays at 3 p.m. in a place designated by the Purchasing Manager. Any day or time other than Tuesday at 3 p.m. shall be approved by the Purchasing Manager or his/her designee.

Upon establishment of the bid opening date, the client division/department shall forward the required number of bid packets, as established by the Purchasing Manager, to the Purchasing Division, accompanied by one separate copy of the Notice Inviting Bids.

The Purchasing Manager will ensure that the Notice Inviting Bids is published in sufficient time to meet legal requirements. Under no circumstances are divisions/departments authorized to advertise on their own. For Public Works projects, notices are also faxed to building exchanges selected by the Purchasing Manager or his/her designee. In addition, all Notices Inviting bids will be posted on the City's website under Bid Opportunities.

5. Distribution of bid packets

- a. Products and equipment. Bid packets will be distributed directly to known vendors. If the list is very large, Purchasing staff may choose to fax Notices Inviting Bids only and then distribute bid packets upon request. Purchasing keeps an updated list of vendors who have received/requested bid packets.

- b. Public Works projects. Typically, bid packets for public works projects are accompanied by plans for which the City requires a refundable deposit. For this reason, bid packets are not mailed out to potential bidders. Potential bidders or subcontractors or suppliers could access the bid online on the City's BidOnline webpage. Payment of the plan's deposit can be provided by mail, or in person at Purchasing's Public Counter. Purchasing keeps an updated list of contractors who have picked up bid packets and plans (the Planholder's list), which is available upon request to interested parties.

6. Contacts with City Staff during bid process

From the time the bid packets are released until an award or rejection of all bids is made, no direct contact shall be made with potential bidders by anyone except Purchasing Division personnel without the Purchasing Manager's specific authorization. All inquiries shall be referred to Purchasing Division personnel who will be responsible for transmittal of information.

7. Addendums

If, as a result of inquiries or a pre-bid conference, additional information is required to be disseminated to prospective bidders, the Purchasing Division will be responsible for disseminating addenda, as appropriate.

8. Receipt of Bids

All bids will be stamped upon receipt with the date and time. Any bids received after the bid opening time will be time/date stamped and returned unopened to the vendor.

9. Bid Openings

The Purchasing Manager or his/her appointee will conduct the bid opening at the time, date, and location designated on the Notice Inviting Bids. The person conducting the bid opening will orally announce the bid prices of each bidder after ascertaining that the bid deposit is with the bid proposal. Prices of bid proposals that do not have bid deposits, as required, or an annual bid bond, will not be announced. Purchasing Division personnel will then proceed to check all figures and extensions. Each bid will be checked by Purchasing for proper surety, if a bond is used as bid deposit, and responsiveness.

10. Bid Evaluations

- a. The Purchasing Manager will forward to the appropriate division/department all documents related to the specific bid with a transmittal memorandum, and an Evaluation of Bid form (See Exhibit "1-C" in the Appendix, pgs.52-56)

listing all bids and specifying the date a reply is required to meet the award deadline. In addition, any errors, irregularities, or apparent areas of responsibility shall be identified. Typically, copies of the three lowest bids are sent to the client.

- b. The divisions/departments will review the bids for adherence to the technical specifications. Bids will also be evaluated on price; life-cycle cost when included in the specifications; trade-in allowances, if included; and trade discounts. The reviewing division/department will prepare its recommendation for award. If the recommendation is to award to other than the lowest bidder or if rejection of all bids is recommended, a written justification must accompany the recommendation.

11. Recommendation for award

Upon receiving the department's recommendation on the Evaluation of Bid form, the Purchasing Manager shall, if in agreement, forward it to the City Manager or his designee for concurrence. Subject to the City Manager's concurrence, the Purchasing Manager will publicly notice the recommendation for a period of five working days. If, within the posting period, an appeal(s) is received, the provisions of the current Council resolution (2003-129) establishing appeals procedures will apply.

12. Council award

Together with the Evaluation of Bids form and the award recommendation, the Division shall prepare and route a Council Agenda Item for Council award of a contract to the City Manager for approval, within the time frames established by the City. Typically, awards of contract will be placed on the Council agenda as Consent items.

13. Contract Documents

- a. Products and equipment. After Council award, Purchasing will notify all bidders of the award of bid, or rejection of all bids, and will send contract documents (contract, specifications and bid received) to the successful proposer for signature.
- b. Public Works projects. After Council award, Purchasing will notify all bidders of the award of bid, or rejection of all bids, and prepare a Purchase Order which will be forwarded to the Capital Management Division of the Public Works Department.

This division is also responsible to prepare and send a formal contract to the successful proposer for signature and to request insurance certificates and Performance and Payment bonds. The Capital Management Division administers

all contracts for the Public Works Department and projects, as agreed upon, for the Water Division, Wastewater Division, or Airport.

Formal Contracts for other public works projects, not to be administered by the Capital Management Division of Public Works, will be prepared and sent out by the Purchasing Division and Purchasing will request insurance certificates and Performance and Payment bonds.

14. Notice to Proceed

After Contracts and insurance and bonds, as applicable, have been returned to Purchasing and found acceptable, they will be routed for approval to Risk Management for insurance and to the City Attorney for approval of contract and bonds. After full execution of the contract documents by the City, Purchasing issues a Notice to Proceed in coordination with the client division/department.

15. Contract administration

Contract administration will be the responsibility of the client division/department, except for Citywide contracts (for example, office supplies, uniforms, copier service), which are the responsibility of Purchasing (see Procedure #17, pg.45).

SUBJECT: SOLE-SOURCE PURCHASES OVER THE FORMAL BID LIMIT

Purpose

In the event that there is one, and only one, source for a product in excess of the formal bid limit, Purchasing will assist in developing a Council Agenda item for sole-source authorization, or if the anticipated cost is below the formal bid limit.

Procedure

(Administrative Order #3-3) When a department wishes to purchase a product over the formal bid limit from a "sole source" without competitive bidding, a sole-source resolution is to be prepared and submitted with a Council agenda item. In order to establish a legal basis for a sole-source exception, the following statements and findings must be made and set forth in every sole-source resolution:

1. A statement describing every unique or specialized feature of the product in question.
2. A statement of why the department requires that the product in question has such unique or specialized features (i.e., a statement of why a product without such features would not meet the department's needs).
3. A description of the department's efforts to locate all possible suppliers of such product.
4. A statement that, in spite of its efforts, the department has been able to locate only one supplier of the product in question.
5. A statement that indicates the ultimate cost of the product and the process used to determine the cost of the product.
6. A finding that it is, therefore, proper for the City to dispense with the competitive bidding requirement in this instance and to authorize the Purchasing Manager to purchase the product in question under the sole source exception.

A copy of the draft agenda item, a sole source resolution and a matrix showing comparisons of features between manufacturer/suppliers, if applicable to the particular sole source, shall be submitted to the Purchasing Manager for review and processing prior to placement on the Council agenda. The Purchasing Manager will obtain a quote or verify the provided quote from the vendor and forward the documentation, with a recommendation, to the City Attorney's Office for review and recommendation.

An example of a sole-source resolution may be obtained from the Purchasing Division.

SUBJECT: COOPERATIVE PURCHASING AND “PIGGYBACKS”

Purpose

To establish general policies and procedures regarding purchases made through Cooperative Purchasing Agreements with the State of California, Counties, municipalities, and other public agencies or jurisdictions irrespective of the formal bid limit set by the City Charter.

Policy

It shall be the policy of the City of Fresno that the Purchasing Manager may purchase equipment and products by participating in a cooperative purchase of several agencies (joint bid) or through contracts entered into by other governmental agencies (“piggyback”). All such purchases must be from contracts which were competitively bid. The Purchasing Manager is also authorized to purchase products and services under the California Multiple Award Schedule (CMAS) of the State of California or federal GSA (for ISD only per GSA Schedule 70) contracts.

Procedure

1. Cooperative Purchases. The Purchasing Manager is authorized to participate in cooperative purchases of several municipal entities and/or other public agencies as a lead agency or as a participating agency under another agency’s leadership. When the City of Fresno is the lead agency, the City of Fresno “boilerplate” for that particular procurement shall be used. If the lead agency is another agency, the City of Fresno may award to a bidder other than the lead agency as a result of the application of local preference (see Procedure #17, pg.45).
2. Piggybacks. The Purchasing Manager is authorized to “piggyback” contracts for products and equipment, entered into by other governmental agencies (municipality, county or State) through a competitive bid. The Purchasing Division will obtain documentation to verify the contract and bid process. All products or equipment purchased under this provision must substantially meet the technical specifications of the bid. Major deviations from the product specification will not be allowed. However, minor modifications which result in a price differential of 5 percent or less are authorized.

The Purchasing Manager is also authorized to purchase technical products or services under the California Multiple Award Schedule (CMAS) of the State of California or federal GSA contracts. Purchases under CMAS require that a copy of the purchase order issued by the City be mailed to:

Department of General Services (DGS), Procurement Division, Data Management, 707 3rd Street, Second Floor MS 203, West Sacramento, CA 95605.

SUBJECT: REQUIREMENTS CONTRACTS

Purpose

To establish policies and procedures whereby the City establishes Requirements Contracts and client divisions/departments may purchase products and services directly from vendors without submitting requisitions to Purchasing. Requirements Contracts decrease the procurement time by providing a ready source of supply for various commodities/services at a fixed price for a specified period of time.

Policy

It shall be the policy of the City of Fresno that the Purchasing Division may establish Requirements Contracts for commodity groups when repetitive purchases and the anticipated annual expenditures make such action feasible and appropriate. Requirements Contracts may also be established for services, i.e., travel agency, etc. Contracts will be awarded to single or multiple vendors for products or services at a set price for a given period of time. Client divisions/departments may purchase those commodities or services covered by a Requirements Contract directly from vendors as required for their day-to-day operation.

Procedure

Commodity group requirements (or scope of services) will be generally determined by client division(s)/ department(s) which will submit a bid packet (or Request for Proposals) to Purchasing. For Commodity groups, the division/department will submit a list of the major items and the anticipated annual usage of each item. The quantities will be used for bid purposes and the actual quantities purchased may be increased or decreased depending on the actual needs of the City.

1. Purchasing Division buyers may also identify needed Requirements Contracts through their experience in the repetitive purchases of products. In those instances, Purchasing will be responsible for coordinating the initiation of the Requirements Contract with the client division(s)/department(s).
2. Requirements Contracts will normally be awarded for a one-year period, but may be extended for two one-year periods if: (1) the client division(s)/department(s) confirm in writing that the vendor is performing satisfactorily and that they wish to extend the contract; and (2) for all extensions the vendor either agrees to hold the price or has agreed to a price change (increase or decrease) methodology as stated in the specifications.

3. Approximately six months prior to the end of a contract, Purchasing will notify the client division/department to update the specific commodity items and quantities for rebid purposes.
4. Requirements contracts may follow the formal bid process (see Procedure #1, pg.6), the informal bid process (see Procedure #9, pg.26), or Requests for Proposals for Technical and Nonprofessional Services (see Procedure #6, pg.17).
5. Once a requirements contract has been established, departments shall not purchase any goods or services for which the contract has been established, outside of that contract without the express permission of the Purchasing Division.

SUBJECT: PREQUALIFICATIONS - TWO STEP FORMAL BIDS FOR EQUIPMENT

Purpose

To establish a uniform procedure regarding formal bids requiring a two-step process which normally includes a pre-qualification component. This process is primarily used for equipment to allow some flexibility and negotiation of non-critical technical specifications with the bidders, followed by the formal bid where bidders submit pricing of their pre-qualified equipment.

Procedures

The two step process is primarily used to purchase equipment and products only when specifications are so complex or so indeterminate that a formal bid specification is impractical. Under the two-step process, proposers will initially submit technical proposals only for pre-qualification. After evaluation of the submitted product by the client and Purchasing, proposers will be requested to submit cost proposals for their qualified product. When the two-step process is used for products or equipment, the second step will be a competitive bid. Both the pre-qualification packet (first phase) and the formal bid packet (second phase) are mailed together with instructions for the bidders as to which packet they submit and when. Contact the Purchasing Division for a sample.

The requesting division/department shall develop the technical specifications for the project. They shall be written to solicit as many bids as possible from vendors who can deliver a product meeting the spirit and intent of the specification. City employees developing technical specifications may contact potential vendors to obtain technical data or industry standards, but are cautioned against accepting technical data that would result in a proprietary specification. It shall be City policy that vendors cannot bid on equipment, supplies, or construction projects if they prepared a substantial part of the specification.

The process follows the formal bid procedure (see Procedure #1, pg.6), with the following additional steps, prior to actual bidding with pricing.

1. Technical Pre-qualification - The technical specifications are usually expressed as minimum requirements for specific equipment but still allowing flexibility and negotiation of minor technical points during the evaluation process. Typically, specifications are set up for the potential bidder to mark "comply" or "non-comply" of its equipment. Bidders are required to respond to each specification. If a bidder is unable to conform to the specifications or has deviations to the specifications they are encouraged to submit a form stating their deviations/exceptions.
2. Notification of Pre-qualified equipment - After a complete evaluation of all proposals which were received timely, Purchasing notifies all bidders of pre-

qualified equipment by addendum.

3. Appeal - If any proposer desires to appeal a denial for pre-qualification, the proposer must submit in writing a justification for acceptance as a pre-qualified proposer to the Purchasing Manager within five working days from date of notification.

**SUBJECT: REQUEST FOR PROPOSALS FOR TECHNICAL AND
NONPROFESSIONAL SERVICES (REQUIRING COUNCIL AWARD)**

Purpose

To establish policies and procedures for the use of Requests for Proposals (RFPs) for technical and nonprofessional services of \$50,000 or more.

Policy

It shall be the policy of the City of Fresno that a formal Request for Proposal (RFP) will be utilized to solicit proposals for technical and nonprofessional services of \$50,000 or more. The RFP process must ensure that the most advantageous procurement for the City will be made.

RFPs for consultants and professional services, i.e., accounting, engineering, architectural, legal, and medical, etc., are decentralized and the policies and procedures of Administrative Order 6-19 apply.

Procedure

1. Development of Request for Proposals (RFP)

- a. The client division/department will develop the scope of work for services to be provided and will describe the required services, location, frequency, quality, special requirements, etc. as precisely as possible. The appropriate standardized RFP (“boilerplate”) to prepare an RFP can be found on the City Staff Website.
- b. The RFP will also include the criteria to evaluate the proposals. Criteria must not be subjective in nature and must correlate to the information requested in the proposal.

2. Establishment of Evaluation Committee

It is recommended that the members of the evaluation committee be selected prior to the publication of the RFP and have an opportunity to review the RFP before it is distributed.

3. Review Process for RFP

The client division/department submits two copies of their RFP to the Purchasing Manager for review/approval as well as an e-mail copy of the document.

Subject to the Purchasing Manager’s approval, which shall be evidenced by notation on the face of both copies of the proposal packet, the Purchasing

Manager shall obtain the City Attorney's approval as to form and legality. Such approval shall be evidenced by notation on the face of both copies of the RFP.

4. Pre-Proposal Conference and proposed opening dates

Following legal approval, both copies shall be returned to Purchasing. The Purchasing Manager or his/her designee shall forward one copy to the issuing division/department and retain one in the RFP file. At this time, the pre-proposal conference and proposal opening times and dates shall be established through coordination with the client division/department.

5. Distribution of RFPs

Upon establishment of the pre-proposal conference and proposal opening times and dates, the client division/department shall forward the required number of proposal packets, as established by the Purchasing Manager, to Purchasing accompanied by one separate copy of the "Notice Inviting Proposals." The Division should also submit a list of names and addresses of any proposers they have been in contact with or who have shown an interest in receiving a RFP packet. Purchasing will add names of potential proposers from its files. RFP packets will be mailed to all known potential proposers.

6. Advertising Notice Inviting Proposals

Purchasing shall advertise the Notice in a local newspaper of general circulation. Clients are not authorized to advertise themselves.

7. Contact with City Staff during RFP process

From the time the proposal packets are released until an award or rejection of all proposals is made, no direct contact shall be made with potential proposers by anyone except Purchasing personnel without the Purchasing Manager's specific authorization. All inquiries shall be referred to Purchasing, who will be responsible for the transmittal of information.

8. Addendums

If a pre-proposal conference is required, the Purchasing Manager or his/her designated representative will chair the conference. If, as the result of the pre-proposal conference, additional information is required to be disseminated to issuing addenda, as appropriate.

9. Receipt of Proposals

All proposals will be stamped upon receipt with the date and time. Any proposals received after the proposal opening time will be time/date stamped and returned unopened to the proposer.

10. Opening of Proposals

The Purchasing Manager or his/her designated representative will publicly open the proposals and read pricing if included in the submittal. Because the cost is not the sole criteria for RFPs in determining which proposer will be selected for contract award, the Purchasing Manager or his/her designated representative will make no reference to the “apparent low bidder.”

11. Evaluation of Proposals

The proposals will be sent to the requesting division/department for evaluation with an evaluation form. This form lists all proposers and is used for client’s recommendation. Each proposal will be rated based on the criteria set forth in the RFP. Use of a numerical rating is discouraged. All proposals shall be ranked in numerical sequence in relation to each other for the various evaluation criteria. For instance, if one of the evaluation criteria is financial strength of the company and assuming that five proposals were received, rank all companies with the strongest company number one and the weakest company number five. Be prepared to justify your rankings. If the evaluation committee needs clarification of a proposal, the Purchasing Division will request the information in writing or may ask for presentations from proposers.

The client division/department or evaluation committee will rank proposals and determine the proposer who offers the most advantageous combination of low price and high ranking of criteria. A report describing the evaluation process and reasons for selection is recommended.

12. Recommendation for Award

Upon receiving the Evaluation form with the division’s/department’s recommendation, the Purchasing Manager shall, if in agreement, forward the recommendation for award to the City Manager for concurrence. Subject to the City Manager’s concurrence, the Purchasing Manager will publicly notice the recommendation for a period of five working days. There is no appeal procedure for RFPs. Proposers need to bring their concerns to the Council at the time of award.

13. Council Award

Together with the signed off evaluation, the Division will prepare a Council Agenda Item which:

- a. Recommends awarding a contract to the selected proposer to include the Evaluation Committee’s report or recommendation; or

- b. Recommends commencement of contract negotiations by the client division/department with the selected proposer.

14. Contract Documents

After Council award, unless Council has approved negotiations, Purchasing will send a formal contract, as included in the RFP specifications, to the successful proposer and request insurance certificates and, generally, a performance bond of at least 25 % of the annual contract amount.

15. Notice to Proceed

After the successful proposer has executed the contract and provided the other contract documents to the satisfaction of the City, a Notice to Proceed and a Purchase Order are issued.

16. Contract Administration

The client division/department will receive a copy of the fully executed contract documents and will be responsible for contract administration.

**SUBJECT: REQUEST FOR PROPOSALS FOR TECHNICAL AND
NONPROFESSIONAL SERVICES (WITHOUT COUNCIL AWARD)**

Purpose

To establish policies and procedures for the use of Requests for Proposals (RFPs) for technical and nonprofessional services under \$50,000.

Policy

It shall be the policy of the City of Fresno to use an “informal” Request for Proposals (RFP) process for technical and nonprofessional services under \$50,000.

Procedure

1. The client division/department submits technical specifications of the work to the Purchasing Division and enters an electronic requisition into the system.
2. The Purchasing Division will put together a Request for Proposals in consultation with the client.
3. The procedure for Requests for Proposals (RFPs) under \$50,000 is a less formal version of the procedure for Requests for Proposals over \$50,000 which is awarded by the Council (see Procedure #6A, pg.17).
4. Under \$50,000, there is no sign-off of specifications by the Attorney’s Office after approval of the basic standardized RFP document (“boilerplate”);
5. No advertising in a newspaper, but posting of a Notice on the City’s BidsOnline website;
6. No formal Evaluation Committee, but consultations between the client and Purchasing;
7. No Council award;
8. And no formal, separate contract.
9. Contract administration is the responsibility of the client division/department.

SUBJECT: REQUEST FOR PROPOSALS - TWO STEP PROCESS FOR SERVICES**Purpose**

To establish a uniform procedure regarding Request for Proposals (RFP's) for Services requiring a two-step process. This process is primarily used for services which are broadly defined by the Division. From the responses received from the proposers in the first step, the Division develops complete specifications for the services required in the second step.

Procedure

The two-step process lends itself to complex technical projects, such as custom software (not off the shelf) Step One is used to define the scope. Step Two is used to develop the scope based on information received in Step One. The process follows the Request for Proposal procedure (see Procedure #6, pg.17), except for the following additional steps:

Step One

The client Division provides a broad scope of the project and uses the Step-One process to assess what is available on the market. Proposers will be asked to complete a questionnaire which requests specific information about system features, functions and capabilities and any other technical information proposers wish to submit, to allow the City to have a clear picture of what is available.

The proposals from Step One will be evaluated by the Client and Purchasing and the Client will develop the specifications for Step Two (RFP) spelling out the needs of the City based on the information that has become available in Step One. It is important that the client Division's requirements are not exclusionary and will provide responses in Step Two from a sufficient number of proposers (three or more).

Step Two

The second step consists of a RFP (see Procedure #6, pg.17).

The documents for Step One and Step Two may be included in one document, except for the final scope, or may be based on two separately issued documents.

SUBJECT: PROCUREMENT UNDER THE FORMAL BID LIMIT - GENERAL

Purpose

To establish policies and procedures for purchases of equipment, materials, services, and public works projects for amounts under the formal bid limit as established by Charter Section 1208.

Procedure

Procurement under the formal bid limit may occur in various forms: obtaining quotes; using a sealed, but informal bid process, providing “open” purchase orders (particularly for maintenance and repair items and low cost items that are difficult to bid) or through other processes. The Purchasing Division will choose the process best suited to a timely and efficient procurement, as in accordance with Administrative Order 3-1.

For all budgeted purchases of products and services (excluding professional/consultant services) and public works projects, under the formal bid limit, client divisions/departments shall electronically transmit a requisition to the Purchasing Division that clearly describes their needs. The requisition may include a recommended vendor. Divisions/departments are requested not to obtain quotes from vendors, but may obtain an estimate from a vendor if needed for budget reasons.

1. **Purchases under \$5,000**

One-time purchases under \$5,000 are decentralized and may be made directly by clients under the Direct Voucher Payment process, or by obtaining a purchase order number from Purchasing. Purchases under the decentralized limit for software, computers, City Hall furniture, remodeling, welding, vehicular equipment and printing shall be authorized through the respective Internal Service Funds. The decentralized limit is not intended for repetitive purchases which shall either be acquired through a requirements contract or Purchasing may provide an “open” purchase order.

It is the policy of the City to close out all “open” purchase orders (for maintenance, repair and low cost items) at the end of each fiscal year with a two-week grace period for payment. Purchase Orders for purchases of equipment, and for contracts for supplies, materials and services may roll over from one fiscal year to another and shall be closed out by the client when the equipment has been delivered or at the end of the contract period.

The Purchasing Division is responsible for the issuance of the CAL-Card, the City’s “Official” purchase card to be used for the purchase of parts, supplies or other goods in instances where the parts, supplies or goods are more immediately available, than conventional sources. Each CAL-Card transaction is limited to \$2,500 and may be changed upon review and approval by the Purchasing

Manager. This amount was set as of July 16th, 2010 in Administrative Order 3-1 (4) (a). The CAL-Card is not intended to be used for the purchase of inventory items, repetitive purchases, or services from Graphic Communications, Information Services, and Electronics & Communications. In addition, the CAL-Card cannot be used to purchase alcohol, tobacco, firearms, gambling, travel expenses, etc. (Administrative Order #3-9)

2. Request for Quotation (\$5,000 to formal bid limit amount)

A Request for Quotation process is usually used for straightforward purchases of non-complex supplies and equipment through Purchasing's eProcurement system (BidsOnline). Also, Informal bids for small public works projects (including plans) are being posted on the eProcurement system as well as Informal Requirements Contracts.

The requesting division/department shall submit an electronic requisition describing their needs. For products and equipment the requesting division/department will include, in the comments section of the requisition, the preferred vendor. Purchasing will request quotations through the Division's BidsOnline system from several vendors that can supply the specific product or equipment. Once all the quotations are received, Purchasing will issue a purchase order to the lowest responsive and responsible bidder.

It is at the discretion of the Purchasing Division to use a Request for Quotation process or an informal bid.

3. Informal Bids (up to formal bid limit amount)

Normally the Informal Bid process, which may be a sealed bid, is used for products with complicated technical specifications or public works projects with full size plans. (See Procedure #9, pg.26)

4. Open Purchase Orders (up to \$6,000)

Open Purchase Orders are to be used for low cost items that are difficult to bid and are not intended for repetitive purchases that would be better facilitated by the use of a Requirements Contract (see Procedure # 11, pg.34). Open Purchase Orders are normally requested for a specific vendor and are not competitively bid.

The requesting division/department shall submit an electronic requisition to the Purchasing Division, so that Purchasing staff can determine if an open purchase order is the best process to use. All Open Purchase Orders will be issued with an expiration date not later than June 30. All Open Purchase Orders will be closed out at the end of each fiscal year. Clients will be given approximately two weeks beyond June 30 for payments of purchases in June.

5. Sole Source (up to formal bid limit amount)

The requesting division/department shall submit an electronic requisition to the Purchasing Division describing their needs. The requesting division/department will include, in the comments section of the requisition, proper justification for use of a sole source, i.e. product is available only from one manufacturer, and has unique or specialized features that are only available from one manufacturer or there exists a matching issue. It is at the discretion of the Purchasing Manager or his/her designee whether to proceed with the requisition as a sole source, or to ask additional vendors for quotation. If the sole source is approved, a quotation is obtained from the indicated vendor and a purchase order is processed.

SUBJECT: INFORMAL BIDS

Purpose

To establish policies and procedures for the purchase of products, equipment and public works projects for amounts under the formal bid limit using the informal bid process.

Policy

It shall be at the discretion of the Purchasing Manager or his/her designee when to use either the sealed or electronic informal bid process.

Procedure

Normally the informal bid process is used for products, equipment, and public works projects when complicated technical specifications are involved and when full size plans must accompany the specifications.

1. Development of bid specifications.

Divisions/departments have the option to either submit detailed technical specifications/requirements to Purchasing who will put together the remaining bid packet, or to submit the complete packet by using the standardized bidding documents (“boilerplates”) made available on the City’s staff website.

Informal bids with complete packets will be given priority.

2. Routing of bid packets.

One hard copy of the technical specifications or a complete packet shall be forwarded by the client division/department to Purchasing for review with an e-mailed copy to the Buyer to allow quick corrections. In addition, an electronic requisition should be entered into the Purchasing system.

3. Approval of Bid Specifications

No formal sign-off for informal bids. The Buyer reviews and approves the specifications.

4. Prebid Conference and Bid Opening Dates

Once the bid specifications are finalized, the Buyer coordinates with the client division the dates for a pre-bid conference, if applicable, and the bid opening.

Typically a pre-bid conference is only required for public works projects and takes the form of a walkthrough at the jobsite.

5. Advertising Notice Inviting Bids

No advertising in a local newspaper is required. The Notice Inviting Bids will be posted on the City's Web site.

6. Distribution of Bid Packet

If the informal bid is to be mailed the final packet is either printed by the client division/department or Purchasing. The number of copies will be based on the bidders' list (either provided by the client or Purchasing.) If Purchasing prepares copies of the bid, the copying cost will be passed on to the client division/department through ID Billing. Note: the bid can also be electronically posted on Purchasing's BidsOnline system (eProcurement system).

7. Contact with City Staff During Bid Process

From the time the bid packets are released, or posted electronically, until an award or rejection of all bids is made, no bidder shall initiate, engage in, or continue any communication to or with any elected official, and no elected official shall initiate, engage in, or continue any communication to or with any bidder, concerning or touching upon any matter which is the subject of a competitive procurement, with the exception of a communication which is made on the record in a regular or special meeting of the City Council. (FMC, Section 4-605(b) Any and all inquiries shall be referred to Purchasing Division personnel who will be responsible for transmittal of information.

8. Addendums

If, as a result of inquiries or a pre-bid conference, additional information is required to be disseminated to prospective bidders, the Purchasing Division will be responsible for disseminating addenda, as appropriate.

9. Receipt of Bids

If bids are mailed, they will be stamped upon receipt with the date and time. Any bids received after the bid opening time will be time/date stamped and returned unopened to the vendor. If the bid is posted electronically the bids will be made available by the BidsOnline system to the buyers at the date and time of the bid closing. Each electronic bid will automatically be tabulated in price order for the buyers review.

10. Bid Opening

Informal bids that are mailed in are normally opened on Tuesday and Friday at 2 p.m., if mailed. The Buyer for the project will conduct the bid opening at the time, date, and location designated on the Notice Inviting Bids. The person conducting the bid opening will orally announce the bid prices of each bidder and the total net bid amount will be entered into an Evaluation Form (see Exhibit "9-A" in the Appendix, pg.57). Purchasing Division personnel will then proceed to check all figures and extensions.

No bid deposits by vendors are required.

11. Bid Evaluation

The Buyer will identify the apparent low bidder on the Evaluation Form and forward the form with the lowest bid, or several bids, as applicable, to the client division for review and approval of the low bidder.

12. Recommendation of Award

Once the lowest responsive and responsible bidder is determined, the Evaluation Form is signed by an authorized representative of the client and faxed back to the buyer for processing.

No posting of staff determination.

13. Award

No contract award by City Council. The awarding authority for informal bids is the Purchasing Manager or his/her designee.

The Buyer reviews the client's recommendation for award and cuts the Purchase Order for products and equipment at this point. For public works projects, the Buyer will request, prior to issuance of the Purchase Order, insurance documents from the successful bidder, and for public works projects over \$25,000 also a payment bond of 100 % of the contract amount.

The level for requiring a payment bond is set by the Public Works Director.

14. Contract Documents.

The Purchase Order is the contract. There is no formal, separate contract.

15. Notice to Proceed

The Purchase Order is also the Notice to Proceed.

The purchase order is emailed or faxed to the successful bidder, except for public works projects the original purchase order is forwarded to the client, so the project start date can be coordinated between the client and the Contractor.

16. Contract Administration.

The client division/department is responsible for contract administration.

SUBJECT: PURCHASE ORDERS

Purpose

To establish uniform procedures for all phases of the purchase order process, i.e. initiating, issuing, modification, return and exchange of materials, payment of the purchase order, and cancellation of a purchase order.

Procedure

1. Electronic Submittal of a Requisition.

(See Exhibit "10-A" in the Appendix, pg.58) For all budgeted purchases of products and services, the requesting division/department shall electronically transmit a requisition to the Purchasing Division using Peoplesoft Financials. The requisition shall include a complete description of the user's needs, such as Requester, Quantity, Unit of Measurement (UOM), Description, and Price. (For instructions on how to complete a requisition, under Start Menu, go to PeopleSoft Financials, Training, FS8 Training Docs and select HTML Tutorials.)

Once the requisition is complete, it will not become available to Purchasing for processing unless the next three steps are followed:

- a. The requisition has been edit checked.
- b. The requisition has been budget checked.
- c. The requisition has been approved by a Supervisor or Division Manager of the requesting division/department.

If any one of these processes is not completed, the requisition will not be visible to the Buyer.

2. Processing of Requisition into a Purchase Order.

(See Exhibit "10-B" in the Appendix, pg.59) Once the Requisition has been made electronically available to the Purchasing Division, several types of procurement are available for processing a Requisition into a Purchase Order. These types of procurement include the following:

a. Open Purchase Orders (up to \$6,000)

Open purchase orders are to be used for items that are difficult to bid and not to be used for repetitive purchases or items for inventory that would be better facilitated by the use of a Requirements Contract.

(For further information, see Procedure # 11, pg.34)

b. Request for Quotations (\$5,000 to \$133,000)

To promote competition and ensure fair purchasing practices, Requisitions over \$5,000 but less than the formal bid limit generally require Request for Quotations. A Request for Quotation process is usually used for straightforward purchases of non-complicated supplies and equipment.

Solicitations of quotes are achieved by placing a Request for Quotation on BidsOnline, with approximately two to three days for bidders to submit their quote electronically. Once the quotations are submitted to Purchasing, the Buyer selects the lowest responsive and responsible bid, taking into account freight and payment terms. A Purchase Order is then issued, with a copy sent to the successful bidder.

A Requisition is also required for the following:

a. Informal Bids

Informal bids are for purchases of goods or services or public works projects up to the formal bid limit of \$133,000. A Requisition is submitted to Purchasing to initiate the informal bidding process. At completion of the informal bidding process, a Purchase Order is issued. This Purchase Order is both the Contract and a Notice to Proceed. (For further information, see Procedure #9, pg.26)

b. Formal Bids

Formal bids are for any purchases of goods or services or public works projects over the formal bid limit of \$133,000. A Requisition is required for Formal Bids at either the beginning of the process or after the award of a bid, as applicable. A Purchase Order is issued mainly for purposes of encumbrance, and in support of a separate formal contract. (For further information, see Procedure # 1, pg.6)

The amount of time required to process a Requisition into a Purchase Order is dependent upon what type of procurement the Requisition requires. Open Purchase Orders and Request for Quotes will be processed within two weeks. However, turnaround times for informal and formal bids are longer. (See respective procedures)

3. Payment of Purchase Orders. When goods or services have been rendered or ordered, it will be the responsibility of the division/department receiving the materials or services to keep a written record of the date, quantity, condition, by who received, and other pertinent information relative to the materials or services

listed on the purchase order.

a. One-Time Payment

Where all goods or services have been rendered, or the public works project has been completed in less than thirty (30) calendar days, the invoice and corresponding packing slip/receiving copy should be dated, signed by authorized personnel and forwarded at once to the Finance Division, Accounts Payable, for payment.

Where goods or the price differ from the order or the price, a Purchase Order Adjustment Form should be completed and forwarded to the Purchasing Division for processing.

b. Progress Payments-Ongoing Purchase Order

Normally, partial payments are authorized only for Open Purchase Orders, for Requirements Contracts for products and services, for public works projects with time of completion over 30 calendar days, or for an order where a special justification can be made for partial payment.

The invoice must be signed by the authorized Supervisor/Division Manager of the division/department receiving the goods or services. The invoice, together with the corresponding packing slip/receiving copy, should then be forwarded to Finance, Accounts Payable.

4. Modification of a Purchase Order. When the dollar amount of a purchase order needs to be increased or decreased, or changes have been made to the contract, the purchase order must be modified to reflect these changes. Modification of a purchase order must be coordinated through the Buyer in the Purchasing Division.

Purchase Order Adjustment. The requesting division/department must submit a Purchase Order Adjustment form (see Exhibit "10-C" in the Appendix, pg.60) or via e-mail to the Purchasing Division, relating the following information when applicable:

- a. The specific line item to adjust or modify.
- b. The fund number, org number, and account number of the modification being requested.
- c. The starting balance of the purchase order, the dollar amount of the adjustment or modification, and the ending balance of the purchase order with the adjustment.

- d. Signature of authorized personnel from requesting division/department.

The Buyer will review the Purchase Order modification request and forward to the Purchasing staff assistant. The staff assistant will use the information to update the Purchase Order electronically, and retain the information as back-up to the Purchase Order.

5. Return and Exchange of Materials. Actual returns or exchange of materials or supplies will be coordinated by the requesting division/department with the vendor.
 - a. Returns
A Purchase Order Adjustment form shall be submitted by the requesting division/department to Purchasing for any materials or supplies returned. The invoice, with the appropriate documentation indicating the return, shall be forwarded to the Finance Division, Accounts Payable.
 - b. Exchanges
If there is a substantial price difference due to an exchange, a Purchase Order Adjustment form shall be submitted by the requesting division/department to Purchasing. The invoice, with the appropriate documentation indicating the exchange, shall be forwarded to the Finance Division, Accounts Payable.
6. Cancellation of a Purchase Order. Cancellation of a purchase order must be coordinated through the Purchasing Division. The requesting division/department must submit a Purchase Order Adjustment form to the Purchasing Division for any cancellation of purchase orders, relating the following information:
 - a. Purchase order number
 - b. Date
 - c. Reason for cancellation
 - d. Signature of authorized personnel from requesting division/department

SUBJECT: OPEN PURCHASE ORDERS

Purpose

To establish a uniform policy and procedure for the establishment of Open Purchase Orders.

Policy

It shall be the policy of the City of Fresno to use Open Purchase Orders for low cost items that are difficult to bid and not for repetitive purchases.

Procedure

The requesting division/department shall submit an electronic requisition to the Purchase Division, so that Purchasing can issue a purchase order. Since Open Purchase Orders are issued without going through any competitive process, they are limited to \$6,000. This amount can be increased with authorization from the Purchasing Manager or his/her designee if it can be established that the items cannot be bid economically. If several Open Purchase Orders are issued to the same vendor in the same fiscal year, Purchasing will review if a requirements contract would be a better means of procurement.

All Open Purchase Orders will be issued with an expiration date not later than June 30. All Open Purchase Orders will be closed out at the end of each fiscal year. Clients will be given approximately two weeks beyond June 30 for payments of purchases in June.

SUBJECT: EMERGENCY PURCHASES

Purpose

To establish uniform procedures for emergency purchases.

Policy

An emergency purchase is defined as a repair part for a “down” piece of equipment; material needed for repair of items providing vital services; unforeseen items not known prior to commencement of project; situations where a return visit to repair equipment or complete a project would not be cost-effective. The Purchasing Manager or his/her designee will approve such a purchase.

Procedure

1. Emergency Purchase Under the Formal Bid Limit

Before making a purchase, the authorized employee must call the Purchasing Division (except for nighttime emergencies) and obtain a purchase order number. (Be prepared to give reason for request, vendor, and dollar estimate of expenditure). Prior to submittal of the signed invoice to Purchasing, the client division must follow the electronic procedure for entering, editing and budget checking a Purchase Order. Once Purchasing receives the signed off invoice the Purchase Order will be verified, approved, and dispatched in the system. Then Purchasing forwards the invoice to Accounts Payable.

In the alternative, at the Divisions request, and Purchasing Manager’s approval, the use of the CAL-Card may be authorized to expedite delivery of goods or services depending on the nature and urgency of the emergency. Proper documentation should be included with voucher payment, including invoice and justification.

2. Nighttime Emergencies

For nighttime emergencies, which require the immediate acquisition of materials, services or supplies, complete the transaction accordingly. Then call the Purchasing Division the next working day and secure a Purchase Order number following above procedure.

3. Emergency Purchase Over the Formal Bid Limit

The emergency purchase of equipment or emergency construction over the formal bid limit is subject to the Council’s approval of an Emergency Resolution to suspend competitive bidding in accordance with Section 1208(a) of the Charter. The Emergency Resolution is submitted to the Council by the client; Purchasing is available as a resource.

SUBJECT: CAL-CARD – “Official” Purchase Card

To establish the issuance, accounting, monitoring, retrieval and general oversight of the purchasing card (CAL-Card as currently used by US Bank) use policy for the City of Fresno.

The CAL-Card will be the “Official” purchase card for the City. No other credit card(s) will be authorized and no payments will be made on any other credit card except as indicated in AO 1-9.

Policy

1. The Purchasing Manager is designated to be responsible for the City of Fresno purchasing card issuance, accounting, monitoring, retrieval, and for general oversight of compliance with this purchasing card use policy.
2. The purchasing card may be used only by those authorized to whom cards have been issued in their names and only for the purchase of goods for the official business of the City of Fresno.
3. All authorized users of purchasing cards shall submit documentation including receipts, invoices, packing slips, etc., detailing the goods purchased, the cost of the goods, the date of the purchase and the official business for which it was purchased.
4. Upon separation, job transfer or promotion to a position which no longer necessitates the use of a purchasing card, the employee issued the purchasing card shall immediately notify and then return the purchasing card to the City of Fresno Purchasing Manager.
5. An authorized employee, who is issued a purchasing card in their name, is responsible for its protection and custody and proper use, and shall immediately notify their Department Director or designee and the Purchasing Manager if the purchasing card is lost or stolen.
6. Upon payment, Accounts Payable will follow all established internal control procedures for approval, documentation and payment of purchase card charges.
7. Intent is to avoid use of petty cash, decrease payment processing costs for small purchases, and as an alternative payment method for bid or quoted contracts or work.

Unauthorized use of a purchasing card shall result in disciplinary measures to the fullest extent of the law.

Procedures

1. Issuance of Purchasing Cards

- a. Purchasing cards will be issued to employees who are authorized by their Department Director. The cards will be issued to individuals, in the name of the individual; there will be no department cards. Only one card will be issued in an individual's name. Cards are nontransferable.
- b. The authorized credit limit of all purchasing cards issued shall be determined by the Purchasing Manager and Department Director or their designee. The amount will be based on the specific operational needs of each card holder. The authorized limit may be subsequently adjusted based on actual experience. Changes to the limit will be reviewed and approved by the Purchasing Manager and Director or their designee. The initial authorized credit limit shall not exceed \$5,000 per transaction and \$10,000 per month billing cycle.
- c. In order to obtain a CAL-Card, contact Purchasing Division at 621-1332.
- d. Form attached as a sample.

2. Card Use

- a. The purchasing card shall be used for the purchase of parts or supplies or other goods in instances where the parts, supplies or goods are more immediately available than conventional sources. An example would be minor plumbing or electrical parts that can be purchased within a short drive from the worksite as opposed to a cross city trip to a normal part source.
- b. Purchases made via the purchasing card must comply with the City's purchasing and expenditure policies. The card in no way changes such policies.
- c. Anyone issued a City of Fresno purchasing card (CAL-Card) shall sign an CAL-Card Purchasing Card Agreement issued by Purchasing, thereby agreeing to abide by adopted City Purchasing Card Policies and Procedures and will be provided a copy of such policies and procedures during training and upon the receipt of the CAL-Card. The card holder is responsible for assuring that all purchasing card charges are accurate and consistent with policy guidelines (form attached).

- d. Emergency/Urgent Payment increase requests – Cardholders can request an immediate card purchase limit increase in the event of an urgent need for the preservation of health, life and property. The request can be communicated via telephone, but should be supported and documented in writing or via email.

3. Card Holder Responsibilities

- a. The card holder must:

- (1) Ensure the card is used only for legitimate business purposes.
- (2) Maintain the card in a secure location at all times.
- (3) Not allow other individuals to use the card.
- (4) Adhere to City purchase limits and restrictions.
- (5) Obtain all sales slips, register receipts, and/or purchase card slips and provide same to their designated approving official.
- (6) Attempt to resolve disputes related to billing errors with the vendor directly or in conjunction with the Purchasing Manager.
- (7) Ensure the appropriate credit is issued for disputed items or billing errors on a subsequent purchase card statement.
- (8) Immediately report a lost or stolen purchase card to the card issuer and notify the Purchasing Manager of the lost or stolen card at the first opportunity during business hours.
- (9) Return the card to the Purchasing Manager upon terminating employment with the City.

4. Card Holder Liability

- a. The purchasing card will not affect the card holder's personal credit; however, it is the card holder's responsibility to ensure that the card is used within stated guidelines, policies and procedures of the City. Failure to comply with program guidelines may result in the permanent revocation of the card, charge-back of an improper or unsupported transaction to the card holder for reimbursement to the City, notification of the situation to management, and further disciplinary measures, which may include termination.

5. Card Holder Termination or Card Cancellation

a. The City is required to close an account if a card holder:

(1) Terminates City employment.

(2) Moves to another Division and will not require use of CAL-Card in that new assignment.

b. The City reserves the right to cancel a purchase card for any of the following reasons:

(1) The card is used for personal or unauthorized purposes.

(2) The card is used to purchase any material or service that violates policy, law or regulation pertaining to the City.

(3) The card holder allows the card to be used by another individual.

(4) The card holder fails to provide the required receipts and supporting documentation.

(5) The card holder does not adhere to all of the appropriate City Administrative Orders, policies and procedures.

6. Examples of Items That Cannot Be Purchased With the Credit Card:

a. Services such as: any item or service centrally managed by another City agency, such as:

- Graphic Communications printing, copying, binding, and related capabilities
- Information Technology Services managed automated equipment and software
- Communications managed fax machines and telephone related equipment

b. Food

c. Public Works of Improvement – Any service or onsite work that requires an appropriate contract, license and would require insurance indemnification or approval from Risk Management.

- d. Travel or travel related expenses - Cards shall not be used to reserve or hold hotel rooms or other deposits.
 - e. Recurrent requirements such as making several purchases for items that should be put on a multi—year contract.
 - f. Personal use items
 - g. Cash advances
 - h. Firearms & ammunition
 - i. Tobacco & alcohol products
 - j. Fixed Assets
7. Examples of Items That Can Be Purchased With the Credit Card:
- a. Miscellaneous items needed after normal office hours, or during an emergency
 - b. Subscriptions, memberships, books, and publications
 - c. Maintenance, repair, and operational type of equipment and supplies
 - d. Items on existing open purchase orders, providing that, the vendor has agreed to accept the procurement card as a method of payment
 - e. Staples orders

8 Purchase Card Use Audits

The Purchasing Division will make periodic random audits of card use and charges for appropriateness. Areas to be monitored include, but are not limited to, compliance with this and other related Administrative Orders. Excessive and/or non-use by card holders will also be monitored. The City's Internal Audit Section may also perform periodic audits of the CAL-Card Program and credit card usage by City employees to ensure that all purchases are appropriate and for City Business purposes only.

**CITY OF FRESNO
CAL-CARD PURCHASING CARD AGREEMENT**

Check all applicable boxes

NEW CHANGE

Please **initial** the box next to each statement if you agree.

I, _____ hereby acknowledge receipt of a City of Fresno CAL-Card Visa Purchasing Card, No. _____. Expiration Date, _____. As a cardholder, I agree to comply with the terms and conditions of this Agreement, the Purchasing Card Program Policies and Procedures, and Administrative Order – Purchasing Card AO # 3-9.

I acknowledge receipt of said Agreement and confirm that I have reviewed the power point training on how to use the purchasing card and have read and understand all terms and conditions. I understand that the City of Fresno is liable for all Purchasing CAL- Card charges.

I agree to use this card for City of Fresno “Official Business Only” and agree not to charge personal purchases. I understand that the card will only be used by the cardholder identified on the card and the City of Fresno will audit the use of this card and report any discrepancies to the Department Director. I further understand and agree to take all reasonable precautions to protect it and to guard against its misuse. Failure to comply with program guidelines may result in the permanent revocation of the card, **charge-back of an improper or unsupported transaction to the card holder for reimbursement to the City**, notification of the situation to management, and further disciplinary measures, which may include termination.

I understand that the City of Fresno may terminate my right to use this card at any time for any reason. I understand that this card is valid only while I am employed by the City of Fresno in my current department. I agree to return the card to the City of Fresno, Agency Program Administrator (Purchasing Manager) immediately upon transfer to another department or departure of employment. Legibly sign your full name below.

Cardholder: Signature: _____ Date: _____

Print Name: _____ Division: _____

Approver: Signature: _____ Date: _____

Print Name: _____ Department: _____

Department Director: Signature: _____ Date: _____

Print Name: _____ Department: _____

Agency Program Administrator:

Signature: _____ Date: _____

Print Name: Gary Watahira, Purchasing ManagerPUR (Rev 10/14)

SAMPLE FORM
CALIFORNIA CARDHOLDER ACCOUNT SETUP

Check all applicable boxes
 NEW CHANGE

NOTE: ALL BOXED AREAS MUST BE COMPLETED IN ORDER TO PROCESS

REQUIRED

LEVEL 1 4055 LEVEL 2 01
LEVEL 360 L3 NAME MISC CITIES LEVEL 0193 L4 Name CITY OF FRESNO
APPROVER NAME _____
ADDRESS: _____
EMPLOYEE # _____ PHONE # _____
E-MAIL ADDRESS _____ @fresno.gov COUNTRY USA

REQUIRED

DEPARTMENT/DIVISION: _____
CARDHOLDER NAME _____
(First name, middle initial, last-will be embossed, no titles)
ADDRESS: _____
FRESNO CA 937 _____ PHONE (559) 621-_____
E-MAIL ADDRESS _____ @fresno.gov COUNTRY USA

REQUIRED – DIRECTOR APPROVAL

DIRECTOR NAME _____
DIRECTOR SIGNATURE _____
DATE _____ **REQUIRED**
SINGLE PURCHASE LIMIT \$ 2,500 MERCHANT ACTIVITY TYPE 0000

(Up to \$2,500 in \$50 increments) (4 Digit Code) (May begin with 0)
30 DAY LIMIT \$ 10,000 (Up to \$10,000 in \$100 increments)

The time spent by Purchasing for anything other than processing of statements will be billed back to the Divisions using CalCard. Please provide the Fund/Org in which we may bill to:

Fund: _____ Org: _____

SUBJECT: APPEALS

Purpose

To establish a general policy and procedures for filing, accepting and hearing appeals.

Policy

It shall be the policy of the City of Fresno to provide “due process” to all bidders.
(Resolution No. 2003-129)

Procedure

1. Posting of staff determination. Typically, five (5) working days prior to award, or as stated in the specifications, a Purchasing staff member shall post the staff determination for award on the bulletin board and/or the City’s website. Generally, the appeals period ends on the day before the Council meeting for which award is scheduled. If any bidder is bypassed for award for being nonresponsive to the specifications or a non-responsible bidder, the bypassed bidder shall be notified in writing five (5) working days prior to the Council meeting of the reasons for being considered nonresponsive or non-responsible and given the opportunity to appeal staff determination.
2. Appeal. If an appeal is filed within the deadline and deemed acceptable by the City based on the current Appeal Resolution, it shall be heard in accordance with the procedures of that Resolution. When an appeal is received and accepted, it will be distributed to all other bidders allowing them until three (3) working days prior to the appeal hearing to submit any evidence if they wish to be heard at the appeal hearing. The appellant will be informed of the date, place and time of the appeal hearing. The Purchasing Division will notify the client division and invite a client representative to attend the appeal hearing.

Should the appeal hearing result in a different determination of the lowest responsive and responsible bidder, it will be necessary to post the new staff determination for five (5) working days before an award is made.

For further details on appeals procedures, please consult Resolution No. 2003-129.

SUBJECT: INTERNAL PURCHASING POLICY FOR THE ACCEPTANCE OF BIDS AND REQUESTS FOR PROPOSALS**Purpose**

The purpose of this policy is to set standards for the acceptance of bids and Requests for Proposals for technical/non-professional services by Purchasing staff.

Procedure

1. Acceptance of bids for products and public works projects under the formal bid limit.
 - a. Requests for Quotation (RFQs) for products. All requests for quotation for items under the formal bid limit shall be accompanied by standardized terms and conditions, approved one time by the City Attorney's Office. The RFQ will be awarded to the bidder who submits the lowest bid price for the requested product(s), including freight, discounts and any other cost related factors, without exceptions. The Purchase Order references the bid of the successful bidder and constitutes the contract between the parties.
 - b. Informal bids. Informal bids consist of a standardized bid packet ("boilerplate"), approved one time by the City Attorney's Office, including standardized terms and conditions, and including technical specifications. Boilerplates will be available to City clients through the City staff website. The bid proposal page states that the bidder "proposes to furnish, all in strict accordance with plans and/or specifications" at the listed price. Award of an informal bid, therefore, will be made to the bidder who submits the lowest total bid price. Bidders who take an exception will be considered nonresponsive and not eligible for award. Such bidder will be bypassed, unless the Purchasing Manager, or designee, determines that the exception consists of a minor deviation that does not give the bidder a competitive advantage.

Acceptance of a bid is made by issuing a purchase order referencing the bid. For public works projects, the bidder must also submit insurance and a payment bond (over \$25,000) that meets City requirements. When all documents have been received and are determined by Purchasing staff to meet requirements, a purchase order is issued. The purchase order is the contract between the parties and also the notice to proceed.

2. Acceptance of bids for products and public works projects over the formal bid limit.

Formal bids consist of a standardized bid packet ("boilerplate"), including standardized terms and conditions and a standardized contract, all approved by

the Attorney's Office, and technical specifications. Boilerplates will be available to City clients through the City staff website. Each bid is individually reviewed and approved by the City Attorney's Office before publication.

The bid proposal page states that the bidder "proposes to furnish, all in strict accordance with plans and/or specifications" at the listed price. Therefore, award of a formal bid will be made to the bidder who submits the lowest total bid price. Purchasing staff will carefully check all documents submitted by bidders while the City client reviews any technical submittals. Bidders who take an exception will be considered nonresponsive and not eligible for award. Such bidders will be bypassed, unless a determination is made by the Purchasing Manager that the exception is a minor irregularity which does not give the bidder a competitive advantage and is in the public interest.

The City of Fresno reserves the right to waive any informality or minor irregularity that does not have a monetary consideration when it is in the best interest of the public and of the City to do so. A discrepancy that offers a bidder an unfair advantage will cause the bid to be nonresponsive. A minor irregularity must be called out to the Council in the agenda item for award and must be specifically approved by the Council. All award decisions for formal bids are reviewed and formally approved by the Purchasing Manager, the Director of Administrative Services and the City Manager.

After award, the bidder shall execute the standardized contract within 15 days or an otherwise stated time frame and provide bonds and insurance meeting City requirements; otherwise the City may pull the bid deposit to reach the next bidder. If a bidder is bypassed in the acceptance of the bid by Purchasing staff, the bidder is given the opportunity to appeal staff's determination to a hearing officer.

3. Requests for Proposals (RFPs) for technical/non-professional services over \$50,000.

Purchasing staff shall use the technical specifications provided by the City client and the standardized document ("boilerplate") for Requests for Proposals (RFPs), including standardized terms and conditions, and a standardized contract (over \$50,000), approved by the City Attorney's Office. A boilerplate will be available to City clients through the City staff website. Some RFPs may contain a contract that is tailored to the particular RFP instead of the short standardized contract. Each individual RFP (over \$50,000) is reviewed and approved by the Attorney's Office prior to publication. RFPs under \$50,000 are reviewed by the Purchasing Manager or his/her designee prior to publication. RFPs include a specific document in which proposers must check that they will accept the City's indemnification and insurance requirements. If they do not, that fact will be taken into account in the evaluation process.

The evaluation team for Requests for Proposals will include representatives of the client Department/Division and one representative from Purchasing. If a proposer submits terms and conditions that differ from the terms and conditions contained in the RFP, the proposer will be down ranked accordingly by the evaluation team. If a proposer who submits its own terms and conditions or changes to the City's terms and conditions is the proposer who submitted otherwise the most advantageous proposal, the terms and conditions shall be submitted to the City Attorney's Office for review and evaluation prior to Council award. Based on the Attorney's legal advice, the Purchasing staff will either recommend award to that proposer or go to the next proposer for whom the Attorney review process would be repeated, if applicable.

In particular, all maintenance and license agreements for software shall be reviewed by the Attorney's Office before recommendation for award is made to the Council, because according to the Attorney's Office it is not possible to standardize these agreements.

It is the policy of the Purchasing Division to identify the proposer who offers the best combination of conformance with specifications, quality of service, price and experience. The decision to accept a proposer is always made by Purchasing in cooperation with the client Department/Division, in accordance with the specifications and in accordance with the City's legal requirements, including the Municipal Code.

After award and execution of the contract, a copy of the contract, which includes proposal specifications, is made available to the City client for contract administration. Contracts for services are then added to Purchasing's internal list of contracts for tracking purposes.

SUBJECT: ANNUAL ADJUSTMENT TO FORMAL COMPETITIVE BID LIMIT

Purpose

To establish the procedures for annually adjusting the formal bid limit.

Policy

On July 1st of each year, the Purchasing Manager shall be responsible to adjust the formal bid limit to the nearest whole thousand dollars based on changes in the Consumer Price Index for all products.

Procedure

Through a Charter Amendment to Section 1208 of the Municipal Code of the City of Fresno, the formal bid limit was increased by the voters in March 2002 to \$100,000.

After July 1 of each year as soon as the National Consumer Price Index (United States City Average for All Products) becomes available, the Purchasing Manager shall adjust the formal bid limit to the nearest whole thousand dollars to reflect inflationary cost increases. The adjustment shall be calculated from the point in time when the bid limit was last adjusted. As of August, 2014, the formal bid limit is \$133,000.

After calculating any adjustment, the Purchasing Manager shall notify all City departments of the revised bid limit, or if no adjustment is warranted, departments shall be so notified as well.

SUBJECT: CONTRACT ADMINISTRATION

Purpose

To establish a uniform policy and procedure for the administrations of contracts.

Policy

It shall be the policy of the City of Fresno that contracts be administered by client divisions.

Only Citywide contracts (uniforms, stationery) shall be administered by the Purchasing Division.

Procedure

At the end of the bidding process, contracts and projects bid by the Purchasing Division or Requests for Proposals for services are handed over by the Purchasing Division to the client for contract administration.

A great effort is put into the development of specifications to represent the City's interest. Therefore, client divisions shall carefully study the contract documents provided by the Purchasing Division, ask for clarification from Purchasing, where necessary, and monitor that the contractor's performance in all respects meets specifications. Should City clients experience problems with any supplier/contractor to whom Purchasing has recommended award, please alert the Purchasing Division or submit a Supplier Complaint Form (see Exhibit "17-A" in the Appendix, pg.61). Client divisions should always document performance issues. If the performance of a supplier/contractor consistently does not meet contract provisions, the City will consider notification of breach of contract allowing the supplier/contractor to correct problems within a certain time frame, or the contract will be terminated. Please consult the Purchasing staff or the City Attorney's Office regarding notification for breach of contract.

The Purchasing Division is committed to use only suppliers/contractors who perform satisfactorily and in accordance with specifications and, therefore, appreciates feedback on performance from clients.

SUBJECT: LOCAL PREFERENCE

Purpose

To establish a uniform policy and procedure for the application of local preference for products and equipment, services and public works projects.

Policy

It shall be the policy of the City of Fresno to provide a local preference to local firms whose main or branch office is located within a 25-mile radius from City Hall or within Fresno County.

Procedure

The Fresno Municipal Code (FMC) establishes a local preference for bidders who's main or branch office is located within a 25 mile radius from City Hall or for purchases of products, material and/or equipment the vendor can also be located within the County of Fresno. The local preference is applied when the low bidder is non-local and the second bidder is local. Local preference cannot be applied to federally funded purchases and projects. The local preference varies with type of procurement.

Products: (materials, supplies, equipment):

Five percent, however the preference shall not exceed \$25,000 (FMC, Section 4-108(c) (1) for procurement above \$500,000.

For procurement of \$500,000 or less, there is an additional requirement of the bidder needing to be qualified as small and local, as defined by the state, to receive the preference. These qualifications include:

- i) Be independently owned and operated;
- ii) Not dominant in field of operation;
- iii) Principal office located in California;
- iv) Owners (officers, if a corporation) domiciled in California; and,
- v) Including affiliates, be either,
 - (1) A business with 100 or fewer employees; an average annual gross receipts of \$14 million or less, over the last three tax years;
 - (2) A manufacturer, as defined by Administrative Order 3-1, with 100 or fewer employees; or,

- (3) A microbusiness. A small business will automatically be designated as a microbusiness, if gross annual receipts are less than \$3,500,000; or the small business is a manufacturer with 25 or fewer employees.

Public Works projects:

Five percent, not to exceed \$25,000 (FMC, Section 4-108(d))

Services:

Five percent, no cap (FMC, Section 4-109(b))

The rate of preference is calculated on the non-local bid and the resulting amount is deducted from the local bid. If the local bid is lower after the deduction, award may be made to the local bidder. If after application of the preference, the local bid remains higher than the non-local bid, award shall be made to the non-local bidder.

SUBJECT: SURPLUS

Purpose

To establish policies and procedures for surplus as established by Municipal code Section 4-202 - Sale or Other Disposition of Surplus Personal Property

Procedure

All City owned equipment which is no longer of use to a City Division, shall be declared surplus by the Purchasing Manager if such item has an estimated value of the current Formal Bid limit or less. Any item with a value over the Formal Bid limit must be declared surplus by the City Council.

1. Surplus Disposal Process

a. Defining an Item as Surplus

If an item is no longer of use to a Division or has become unfit or unsuitable for further use due to age, wear, damage or obsolescence, it may be declared as surplus.

b. How to Dispose of the Item

The Division is to complete a Fixed Asset Inventory Input Document (F/A91) and submit it to Purchasing. A separate form needs to be completed for each item if each item has separate Fixed Asset tags.

c. Making the Surplus Item Available to Other City Divisions

Once all surplus items are accumulated and a list developed, the list will be e-mailed Citywide. If any Division is interested in any surplus item, the Division must make arrangements to have the item picked up and inform Purchasing so that the item will be removed from the list. This item of the procedure does not apply to Fleet vehicles.

d. Declaring the Item Surplus

A master list of the remaining items will then be declared by the Purchasing Manager as being surplus to the City's needs, if under current Formal Bid limit.

e. Disposing of Surplus Items

Purchasing contacts the current contract auctioneer to pick up the surplus items which will be taken to the auctioneer's site for disposal during the auctioneer's weekly auction.

f. Surplus Revenue

Proceeds from any auctioned items are returned to Purchasing by the auctioneer and are typically deposited into the General Fund in accordance

with the Code, with the exception of Fleet vehicles whose proceeds are deposited into the Fleet Replacement Fund account.

2. Individual Sales

Surplus may also be disposed of through individual solicitations of offer prepared by the Purchasing Division. Solicitations including items over current Formal Bid limit will be submitted to Council for declaration of surplus and for approval of sale. Proceeds from all individual sales can only be deposited into a client's fund if there are established accounting procedures which require such proceeds into a special fund of the city which must be approved by the Purchasing Manager.

**FRESNO CITY ATTORNEY'S OFFICE
REQUEST/AUTHORIZATION FOR LEGAL SERVICE**

Project Title: Legal Advice & Assistance to Purchasing Division		City Attorney Office Control No.:	
Dept. Contact:	Jan Smith	Phone #:	X1153
Pick Up Contact: (If different from above)		Phone #:	
Rush Item: <input type="checkbox"/> Yes <input type="checkbox"/> No (Response Required)			
Describe Reason (Council meeting date, statutory deadline, etc.):			
Description of Legal Service Being Requested (attach separate sheet if necessary):			
Legal Issues concerning competitive bidding and other procurement with regard to Charter, Municipal Code, Resolutions and other legal documents.			
Legal Review of documents for standardization or legal review of special language.			
ALL OF A CITYWIDE NATURE, NOT ATTRIBUTABLE TO ANY ONE PROJECT, EXCEPT CITYWIDE PROJECTS.			
Complete Sections Below:			
Fund #:	50107	Project ID:	PC BU:
Org #:	530201	Activity ID:	KRA: 0401001000 Res Type:
Capital Improvement Project (CIP): <input type="checkbox"/> Yes <input type="checkbox"/> No (Response Required)			
The above numbers will be used to bill for costs incurred as a result of this request for legal service.			
No service can or will be provided for this project unless this form is completed, and all information sought is supplied. If resubmitting documents, a copy of this form and previous drafts must be attached.			
Estimates from the City Attorney available on request to cover all legal services and costs. When fee expenditures reach a certain level, a revised estimate for the completion of the project should be requested.			
I am authorized to request these services from the City Attorney and to identify the appropriate funding source and CIP designation, as appropriate, in the Sections above. There are now and will be for the duration of this project, sufficient funds in the accounts designated above to pay for the legal services requested.			
Director, General Services Department		7/17/07	
Title	Department Signature	Date	
Title	Department Signature	Resubmitted Date	

**FORMAL BID SPECIFICATION
ROUTING FORM (EXCEPT FOR PUBLIC WORKS)**

Received (Purchasing Date Stamp):

1. TO: **PURCHASING DIVISION**

[] 1st Submittal [] 2nd Submittal (Resubmit old specification sheets)

Project Assigned to Buyer: _____ **Date:** _____

BETH MCDONELL, DBE/SMALL BUSINESS COORDINATOR

Approved: _____ **Date:** _____

Comments: _____

JASON MACDONALD, PURCHASING MANAGER

Approved: _____ **Date:** _____

Comments: _____

TO: **CITY ATTORNEY'S OFFICE**

BRANDON COLLET, DEPUTY CITY ATTORNEY II

Approved: _____ **Date:** _____

Comments: _____

TITLE: _____ **BID FILE NO.** _____

SPECIFICATIONS PREPARED BY: _____

EXT. _____

CONTACT PERSON FOR QUESTIONS: _____

EXT. _____

DEPT/DIV: _____

PS FUND NO. _____ **PS ORG**

NO. _____

PROJECT NO. _____ **KRA** _____

BUDGET ALLOCATION. _____

DOES THIS PROJECT HAVE FEDERAL FUNDING? _____ **NO** _____ **YES**

AGENCY _____

DIVISIONS HAVE THE OPTION:

- a. To encumber a requisition with submittal of this project; or
- b. To encumber a requisition after bid opening when submitting the bid evaluation for final sign-off to GSD and the City Manager.

If you choose b, please have the Division Manager or other authorized individual sign below that funds have been budgeted and are available for this project.

DIVISION AUTHORIZED SIGNATURE: _____ **DATE:** _____

**FORMAL BID SPECIFICATION
ROUTING FORM FOR PUBLIC WORKS**

1. TO: **CONSTRUCTION MANAGEMENT**

Date Sent: _____

LILLIAN GENTZ, CONTRACT COMPLIANCE OFFICER

Approved: _____ Date: _____

Comments: _____

2. TO: **PURCHASING DIVISION**

Date Received: _____

[] 1st Submittal [] 2nd Submittal (Resubmit old spec sheets)

Project Assigned to

Buyer: _____ **Date:** _____

BETH MCDONELL, DBE/SMALL BUSINESS COORDINATOR

Approved: _____ Date: _____

Comments: _____

GARY WATAHIRA, PURCHASING MANAGER

Approved: _____ Date: _____

Comments: _____

3. TO: **CITY ATTORNEY'S OFFICE**

BRANDON COLLET, DEPUTY CITY ATTORNEY II

Approved: _____ Date: _____

Comments: _____

TITLE: _____ **BID FILE NO.** _____

SPECS PREPARED BY: _____ **EXT.** _____

DIVISION AUTHORIZED SIGNATURE: _____

DATE: _____

CONTACT PERSON FOR QUESTIONS: _____ **EXT.** _____

DEPT/DIV: _____ **PS FUND NO.** _____ **PS ORG NO** _____

PROJECT NO. _____ **KRA** _____ **REQUISITION NO.** _____

RESOURCE CODE _____ **BUDGET ALLOCATION \$** _____

ENGINEER=S ESTIMATE (IF APPLICABLE) SENT ON: _____

DOES THIS PROJECT HAVE FEDERAL FUNDING? _____ **NO** _____ **YES**

AGENCY _____

DIVISIONS HAVE THE OPTION:

a. To encumber a requisition with submittal of this project; or

b. To encumber a requisition after bid opening when submitting the bid evaluation for final sign-off to GSD and the City Manager.

If you choose b, please have the Division Manager or other authorized individual sign below that funds have been budgeted and are available for this project.

DIVISION AUTHORIZED SIGNATURE: _____ **DATE:** _____

EVALUATION OF BID PROPOSALS
AIRPORTS DIVISION

FOR: FRESNO YOSEMITE INTERNATIONAL AIRPORT TERMINAL SPINE RE-ROOF

Bid File No. 3051

Bid Opening: August 24, 2010

1. Cool Roofing Systems Inc. 1286 Dupont Court Manteca, CA 95336	\$318,890.00
2. Graham Prewett, Inc. 2773 N Business Park Ave #102 Fresno, CA 93727	\$384,800.00
3. Fryer Roofing Co. Inc. 4877 W Jennifer #150 Fresno, CA 93711	\$396,000.00
4. Roof Systems, Inc dba. Nations Roof West 5463 E. Hedges Ave Fresno, CA 93727	\$397,462.00
5. Fresno Roofing Company, Inc. 5950 E. Olive Avenue Fresno, CA 93727	\$676,144.00
6. California Single Ply, Inc. 1013 Nichols Drive Rocklin, CA 95765	\$685,600.00
7. Sierra Single Ply, Inc. 4710 Patrol Road, #B McClellan, CA 95652	\$729,000.00
8. Solar Coatings, Inc. 2367 East Shea Drive Fresno, CA 93720	\$990,507.00

Each bidder has agreed to allow the City ninety (90) days from date bids are opened to accept or reject their bid proposal. Purchasing requests that you complete the following sections and return this bid evaluation to the Purchasing Division at the latest by Wednesday, September 15, 2010, 5:00 P.M.

The Engineer's Estimate/Budget Allocation for this expenditure is \$_____. The contract price is ___% above/below the Engineer's Estimate/Budget Allocation. If the overage is greater than 10% or only one bid was received, give explanation:

EVALUATION OF BID PROPOSALS
AIRPORTS DIVISION

Page 58

FOR: FRESNO YOSEMITE INTERNATIONAL AIRPORT TERMINAL SPINE RE-ROOF

Bid File No. 3051

Bid Opening: August 24, 2010

BACKGROUND OF PROJECT (To be completed by Evaluating Department/
Division. Explain need for project/equipment):

DEPARTMENT CONCLUSIONS AND RECOMMENDATION:

Award a contract in the amount of \$ _____
to _____
as the lowest responsive and responsible bidder.

Remarks:

Reject all bids. Reason:

EVALUATION OF BID PROPOSALS
AIRPORTS DIVISION

FOR: FRESNO YOSEMITE INTERNATIONAL AIRPORT TERMINAL SPINE RE-ROOF

Bid File No. 3051

Bid Opening: August 24, 2010

Department Head Approval

Department Head Approval

Title _____

Title _____

Date _____

Date _____

Approve Dept. Recommendation
Recommendation

Approve GSD/Purchasing

Disapprove

Disapprove

See Attachment

GENERAL SERVICES DEPARTMENT

CITY MANAGER

Purchasing Manager Date

City Manager or Designee

Director Date

EVALUATION OF BID PROPOSALS
AIRPORTS DIVISION

FOR: FRESNO YOSEMITE INTERNATIONAL AIRPORT TERMINAL SPINE RE-ROOF

Bid File No. 3051

Bid Opening: August 24, 2010

FISCAL IMPACT STATEMENT

PROGRAM:

<u>RECOMMENDATION</u>	<u>TOTAL OR CURRENT</u>	<u>ANNUALIZED COST</u>
Direct Cost	_____	_____
Indirect Cost	_____	_____
TOTAL COST	_____	_____
Additional Revenue or Savings Generated	_____	_____
Net City Cost	_____	_____
Amount Budgeted (If none budgeted, identify source)	_____	_____

PURCHASING EVALUATION FORM

OPENING DATE: _____

TO: _____ DESCRIPTION: _____ CONTROL/BID #:

FROM: PURCHASING/ _____ EXT. #: _____ RETURN TO PURCHASING BY: _____

<u>BIDDER</u>						
<u>Read</u> Total Net Bid:	\$	\$	\$	\$	\$	\$
<u>Corrected</u> Total Net Bid:	\$	\$	\$	\$	\$	\$
Terms:						
Addendum Auth. Signature Business License Contractor Lic. Mfg. Lit./Wty. Samples Included Overall Ranking						

- _____ Low Bidder meets specifications/Purchasing Recommends.
- _____ Low Bidder does not meet specifications. (See comments below)
- _____ Low Bidder bid brand other than specified. Division to verify if meets specifications.

Rankings: Bids will be ranked from lowest (No.1) to highest. Award will be made to the lowest responsible bidder. If the low bidder's product is not acceptable does not meets specifications, the divisions must explain the reasons.

A check mark will be used to indicate if the bidder provided required information and a 0 will be used if the information is missing as noted above.
 Note: Upon reviewing this evaluation document and determining that samples are needed to make an adequate evaluation, please contact the buyer listed above.

Division Sign-off

DATE: _____ DIV. AUTHORIZED SIGNATURE _____ PHONE NO. _____

Division comments: _____ Purchasing comments _____:

Purchase Order

0000061745

City of Fresno

Purchasing Division
 2101 G Street, Bldg. A
 Fresno CA 93706
 (559)621-1332 FAX: (559)488-1069

Vendor: 0000030388
 MASON JANITORIAL SERVICE
 3223 FORUM WAY
 MADERA CA 93637

Dispatch via Print

Purchase Order FRSNO-0000061745	Date 07/19/2010	Revision	Page 1
Payment Terms N30	Freight Terms FOB Destination	Ship Via Best Way	
Buyer Jean Thomas-Runnels	Phone	Currency USD	

Ship To: Fresno Yosemite Int'l Airport
 4995 E. Clinton Way
 Fresno CA 93727

Bill To: Fresno Yosemite Int'l Airport
 4995 E. Clinton Way
 Fresno CA 93727

Fax:

Replenishment Option: Standard

Line-Sch	Item/Description	Quantity	UOM	PO Price	Extended Amt	Due Date
1- 1	Janitorial Svc/4995 E Clinton Way	18,450.00	EA	1.00	18,450.00	07/19/2010

Schedule Total 18,450.00

Item Total 18,450.00

Contact person: Dave Reta @ 559-621-6680

Purchase order in support of an agreement for Janitorial service entered into effect 10/03/08, for Administration Offices at 4995 E. Clinton Way @ \$1537.50 per month. This purchase order shall remain in effect through 6/30/11.

Total PO Amount 18,450.00

- ALL DELIVERIES MUST BE F.O.B. DESTINATION UNLESS OTHERWISE SPECIFIED ABOVE.
- PACKING LIST MUST ACCOMPANY ALL MERCHANDISE DELIVERED ON THIS ORDER.
- CITY OF FRESNO RESERVES THE RIGHT TO CANCEL THIS ORDER IF GOODS NOT SHIPPED AS DIRECTED.
- IF THIS PRODUCT CONTAINS ANY HAZARDOUS SUBSTANCE AS DEFINED BY THE STATE OF CALIFORNIA DIRECTOR OF INDUSTRIAL RELATIONS, A MATERIAL SAFETY DATA SHEET MUST ACCOMPANY DELIVERY.
- PURCHASE ORDER NUMBER MUST APPEAR ON ALL PAYMENT AND DELIVERY CORRESPONDANCE.

Authorized Signature

Requisition

Ship To: Parks & Recreation Administration
 1515 E Divisadero St
 Fresno CA 93721

Business Unit:		FRSNO	APPROVED
Req ID:	Date	Page	
0000035341	10/29/2010	1	
Requester		Currency	
Paul Melikian		USD	
Requester Signature			

Line-Schd	Item	Description	Mfg ID	Quantity	UOM	Price	Extended Amt	Due Date
1-1		Re-roof of the Meux Home Carriage House		1.0000	LOT	1.00	1.00	

Buyer: Jean Thomas-Runnels
 Vendor: 000000001 NEW VENDOR

Line Total: 1.00

Total Requisition Amount: 1.00

Requested by Jake Christensen

57507-31510-179901
 PC00093-Ccnt-Meux

Approval Signature	Approval Signature	Approval Signature
--------------------	--------------------	--------------------

XM NUMBER _____
 DATE _____

**PURCHASE ORDER ADJUSTMENT
 DEPARTMENT OF FINANCE**

DEPT _____

Program	Activity	Group	Task	Project	Finance	Expense	P.O. Date	P.O. Number	Vendor	
Reason For Adjustment							Program	P.O. Price	Adjusted Price	Difference
<input type="checkbox"/> Change Order No. <input type="checkbox"/> Open P.O. More/Less than Actual <input type="checkbox"/> Quantity Less _____ Item Nos. _____ <input type="checkbox"/> Quantity More _____ Item Nos. _____ <input type="checkbox"/> Freight _____ Prepay & Add per P.O. <input type="checkbox"/> Unit Price Change(enter reason below) <input type="checkbox"/> Cancel (reference cancellation notice below) <input type="checkbox"/> Payment per invoice <input type="checkbox"/> Discount <input type="checkbox"/> Other _____										
							TOTAL			

Explanation _____

Dept. Approval By _____ Date _____

Purchasing Approval _____

White-Accounting: Blue-Vendor: Green-Purchasing: Canary-Department; Pink-Division Goldenrod-Originator

CITY OF
FRESNO

PURCHASING
DIVISION

Date _____

SUPPLIER COMPLAINT FORM

PO NUMBER _____	BUYER NAME _____
SUPPLIER _____	
PHONE # _____	SALESPERSON _____

NATURE OF COMPLAINT

<input type="checkbox"/> PRICE VARIANCE	<input type="checkbox"/> PRODUCT SUBSTITUTION
<input type="checkbox"/> QUANTITY	<input type="checkbox"/> INFERIOR PRODUCT
<input type="checkbox"/> FREIGHT VARIANCE	<input type="checkbox"/> UNAUTHORIZED SHIPMENT
<input type="checkbox"/> LATE DELIVERY # OF DAYS _____	<input type="checkbox"/> FREIGHT DAMAGE
<input type="checkbox"/> OVER 30 DAYS OLD	<input type="checkbox"/> SLOW TO RESOLVE PROBLEMS
<input type="checkbox"/> SUPPLIER COULD NOT DELIVER	<input type="checkbox"/> LACK OF SUPPORT / SERVICE
<input type="checkbox"/> BACKORDERS (PARTIAL SHIPMENTS)	<input type="checkbox"/> OTHER

ACTION TAKEN BY YOUR DIVISION AS OF TODAY'S DATE:

FROM _____ PHONE # _____ DIV.

PLEASE SUBMIT OR FAX SUPPORTING DOCUMENTATION, AS NEEDED

Administrative Orders	-	-	-	-	https://www.fresno.gov/NR/rdonlyres/7A151DDA-7C4C-42B5-B488-8FBFFB0CF7E1/0/Administrative_Order_Manual10202010.pdf
BidsOnline	-	-	-	-	http://vendors.planetbids.com/fresno/bidsearchform.cfm
CAPPO	-	-	-	-	http://www.cappo.org
Charter of the City of Fresno	-	-	-	-	http://library.municode.com/index.aspx?cli=14478&stateId=5&stateName=California
City of Fresno-	-	-	-	-	http://www.fresno.gov
CMAS	-	-	-	-	http://www.dgs.ca.gov/pd/Programs/Leveraged/CMAS.aspx
Finance Department – Purchasing	-	-	-	-	http://www.fresno.gov/Government/DepartmentDirectory/Finance/Purchasing/default.html
Facebook	-	-	-	-	http://www.facebook.com/apps/application.php?id=169213766267
Municipal Code of the City of Fresno	-	-	-	-	http://library.municode.com/index.aspx?cli=14478&stateId=5&stateName=California
NIPA	-	-	-	-	http://www.nationalipa.org/
NJPA	-	-	-	-	http://www.njpacoop.org/
State of California	-	-	-	-	http://www.ca.gov/
Twitter	-	-	-	-	http://twitter.com/Fresno_Bids
U.S. Bank	-	-	-	-	http://www.usbank.com/
U.S. Communities	-	-	-	-	http://www.uscommunities.org/
WSCA	-	-	-	-	http://www.aboutwsca.org/

Federal Transit Administration (FTA) Procurement for Acquisition of Goods and Services under FTA Grant Program

Purpose

These supplemental procedures shall apply when Fresno Area Express (FAX) enters into third party agreements utilizing Federal Transit Administration (FTA) funds. When the FAX municipal code or charter occupies the same subject area of guidance provided in these procedures, the more restrictive requirements shall apply.

Complete FTA Supplemental Procurements Section on the following pages.



SUPPLEMENTAL PROCUREMENT
SECTION

FOR THE ACQUISITION OF GOODS
AND SERVICES UNDER FEDERAL
TRANSIT ADMINISTRATION GRANT
PROGRAMS

CITY OF FRESNO-DEPARTMENT
OF TRANSPORTATION-FRESNO
AREA EXPRESS (FAX)

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Article I. Purpose

These supplemental procedures shall apply when the Department of Transportation/Fresno Area Express (FAX) enters into third party agreements utilizing Federal Transit Administration (FTA) funds. When the City of Fresno (City) municipal code or charter occupies the same subject area of guidance provided in these procedures, the more restrictive requirements shall apply.

Article II. Standards of Conduct and Conflicts of Interest

Section 2.01 Conflict of Interest

There will be uniform and equitable application of the Standards of Conduct of the City of Fresno, Department of Transportation/Fresno Area Express (FAX) involving all activities associated with the procurement of goods and services. This section also defines responsibility to identify and prevent real or apparent Conflicts of Interest.

Prior to the issuance of a procurement solicitation, informational and research contacts with prospective vendors may be made for the purpose of gathering data. However, in making such contacts, employees, officers, board members, and agents shall avoid any commitment or implication of a possible future award.

Accordingly, no request for complimentary services or supplies, which may imply an obligation on the part of FAX, or the City, shall be made. Requests for testing services, product samples, or demonstrations, and free trips to examine vendor products are to be avoided.

Whenever procurement is in process (e.g., during the solicitation, evaluation, negotiation, and award phases) all contacts with potential contractors or vendors shall be made through the Purchasing Unit..

Employees, officers, directors, and agents of the City are also subject to the laws of the City and State of California concerning conflicts of interest. Monetary penalties and, in some cases, criminal penalties are imposed by California law for violations. In addition, City employees are subject to discipline for a violation that could lead to or result in termination of employment.

Section 2.02 Gratuities and Kickbacks

No member of the groups listed above will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to sub- agreements. Anyone failing to adhere to the above will be subject to any disciplinary proceeding deemed appropriate by the City of Fresno.

Section 2.03 Personal Conflicts of Interest

No City employee, officer, Board member, agent or contract shall participate in the selection, award or administration of a third party contract or other agreement if a real or apparent conflict of interest would be involved. Such a conflict of interest arises, whether real or apparent, when any of the following has a financial or other interest in the firm(s) considered or selected for award:

- a) An employee, officer, board member, or agent of the City;
- b) Any member of their immediate family, including but not limited to, husband, wife, father, mother, brother, sister, son, daughter, father-in-law, mother-

in-law, son-in-law, and daughter-in-law;

- c) Their partner or business associate; or
- d) A company or organization which is about to employ any of the above.

Apparent or Appearance of Conflict is based on a reasonableness standard i.e. would a reasonable person with knowledge of all material facts believe there appears to be a conflict?

Section 2.04 Organizational Conflict of Interest

An organizational conflict of interest may be real or apparent and arises where, because of other activities, financial interests, relationships, or contracts - a contractor is unable, or potentially unable, to render impartial assistance or advice to the City. Such a conflict exists in circumstances where the contractor's objectivity is or might be impaired or where the contractor has an unfair competitive advantage.

Organizational conflicts lead to two (2) distinct problems - bias or an unfair competitive advantage.

- a) Bias is a situation where an advisor is placed in a position that creates an incentive to distort advice or decision making.
- b) Unfair competitive advantage occurs when one contractor has information not available to other contractors in the normal course of business. For example, an unfair competitive advantage would occur when a contractor developing specifications or work statements has access to information that the City has paid the contractor to develop, or information which the City has furnished to the contractor for its work, when that information has not been made available to the public and to other offerors. Because this information enhances the contractor's competitive position in the procurement process, it represents an unfair competitive advantage over other offerors.

The City's procurement activities shall be structured to ensure full and open competition and to eliminate or minimize any unfair competitive advantage in circumstances where an organizational conflict, real or apparent, is presented. Appropriate structural steps are dependent upon the particular circumstances surrounding the procurement and might include: prohibiting the contractor from participating in the procurement, the bid process or in evaluation of bids, fully disclosing all information to all prospective offerors for a reasonable amount of time, adjustment of specifications to address any potential advantage, among others.

Section 2.05 Confidential Information

No member of the groups listed above shall furnish advice or services to a firm which is bidding on or planning to bid on a contract with the City, or which is doing business presently with the City. No member shall use confidential information for his or her actual or anticipated personal gain, or the actual or anticipated personal gain of any other person related to them by blood, marriage, or

by common commercial or financial interest. Anyone failing to adhere to the above will be subject to any disciplinary proceeding deemed appropriate by the City of Fresno.

Article III. Procurement Authority

This procedure is intended to establish guidelines that apply when the City enters into contracts that may include services, goods, equipment, travel, products and/or the use of subcontractors and consultants.

The Purchasing Manager is the designated “Contracting Officer” for FAX and the City of Fresno. The Purchasing Manager may delegate certain contracting authority to subordinate staff or FAX within the limitations of this procedure. The person’s delegated authority by the Purchasing Manager exercises Contracting Officer authority on behalf of FAX. The City may organizationally establish a Contracting Officer’s position to ensure compliance with these procedures and to exercise certain authority expressed in these policies.

All delegations of Contracting Officer authority shall be in writing.

The Transportation Director is authorized to enter into contracts on behalf of FAX on all Federally Funded FAX Contracts not requiring City Council or the Purchasing Managers approval.

The City Council shall approve all contracts requiring approval by the City Charter, Administrative Orders, or otherwise designated by the City Council to the Purchasing Manager.

The Transportation Director is authorized to execute change orders and modifications to an amount not to exceed the City Council approval threshold.

Once approval is obtained for a given transaction, the Transportation Director, with the power of re-delegation, shall execute all contracts.

Final authority for purchasing actions and decisions are to be made by the City Council except as delegated to the Purchasing Manager. The Purchasing Manager may delegate Contracting Officer authority and authorize the re-delegation of Contracting Officer authority.

For any contract to be valid the City Attorney shall approve it as to form.

Section 3.01 Purchase Requisition

Whenever any officer requires any materials, supplies, equipment, services, and/or public works construction for this or her office or department, he or she shall file with the Purchasing Manager a requisition of forms provided by the Purchasing Manager. . Such requisition shall bear the approving signature or electronic equivalent of the officer or deputy who has jurisdiction of the department in which it originated. Such requisition shall specifically describe the article or articles and the kind and quantity desired. It may also specify the brand or make desired as long as “or equal” provisions are included along with the salient characteristics

required for consideration as an equal product or service.

Section 3.02 Independent Cost Estimate (ICE)

An Independent Cost Estimate shall be included with all purchase requisitions. The term “Independent” refers to the fact that the estimate cannot be provided by a prospective bidder or proposer for the services being solicited. The level and complexity of the estimate shall be commensurate with the contract performance risk. This estimate may be used as an aid to the subsequent cost or price analysis.

Section 3.03 Most Efficient and Economic Purchase

Departments, during their annual budget process, should determine the procurement actions necessary to sustain their operations through the fiscal year. A list of these procurement actions should be forwarded to the Purchasing Department annually. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase and to avoid purchase of unnecessary or duplicative items. Where appropriate, an analysis will be made of lease versus purchase alternatives and any other appropriate analysis to determine the most economical approach. The City considers various procurement sources to ensure economical purchases including, but not limited to GSA, State of California and municipal cooperatives.

The Contracting Officer shall review items requested by the using departments to determine the most efficient and economic means of satisfying a requirement. This shall include combining like orders to reduce overall costs. The review shall include a review of Federal surplus property in lieu of purchasing new equipment or property whenever feasible and where such purchase will reduce the overall project costs.

Splitting or separating into smaller work orders, projects, purchase order or contracts for the purpose of evading the provisions of this procedure is prohibited. Splitting or separating shall mean and include reducing the amount of any service to be furnished to FAX under circumstances where there is reasonable knowledge that the same service will be additionally required, there are funds available for that project or purchase and the sole purpose is to knowingly avoid the requirements herein. In instances where it is deemed to be to the benefit of FAX to split or separate a transaction, the proposed splitting or separation shall be referred to the City Council, and the Purchasing Manager where appropriate for its findings and determination prior to award.

Section 3.04 Contract Administration System

FAX must maintain a system to administer its third party contracts adequately to ensure that its contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders and applicable Federal requirements. The primary responsibility for contract administration is with the Contracting Officer. This responsibility may be delegated to a Technical

Representative such as a Project Manager. This delegation shall ensure that the responsibilities for contract quality, cost, and schedule performance measurement are evaluated by objective means prior to payment of invoices. The signature on the invoice should indicate that FAX staff has satisfactorily performed this evaluation before payment.

Article IV. Methods of Procurement

Section 4.01 General

The Contracting Officer shall incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not 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.

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

Evaluators and reviewers must follow the established criteria when rating the proposals.

Section 4.02 Procurement File Documentation

The Contracting Officer or designee is responsible for contract file documentation. The contract file documentation shall vary depending on the nature and the complexity of the procurement action. All files, excluding Micro Purchases, should contain an Independent Cost Estimate (ICE), a copy of the solicitation, the proposal or bid, all executed certifications and assurances, the price or cost analysis, evaluation forms, responsibility determinations, the executed agreement, and any other pertinent information.

Micro Purchases may be documented on a single sheet containing the following at a minimum:

- a) That the price is fair and reasonable
- b) How the price was determined fair and reasonable by Staff

Small Purchases may be documented using the approved procurement file documentation checklist issued by the Contracting Officer. All files shall contain the following as a minimum:

- a) The reason for the contract type selection
- b) The name of the contractors solicited
- c) The reason for selecting the procurement method
- d) The reason for selecting the successful contractor
- e) How the price was determined fair and reasonable

Formal Purchases shall be documented using the approved procurement file documentation checklist issued by the Contracting Officer. All files shall contain the following as a minimum:

- a) The reason for the contract type selection
- b) The name of the contractors solicited

- c) The reason for the selecting the procurement method
- d) The reason for selecting the successful contractor
- e) How the price was determined fair and reasonable

Section 4.03 Micro-Purchases

Materials, Supplies, Equipment and Services equal to or less than \$3,500:

Purchases of \$3,500 or less are not subject to bidding requirements if the Contracting Officer or designee considers the price offered as fair and reasonable. The Contracting Officer may accept one quotation from responsible and responsive firms. Purchases shall not be split to avoid more rigorous procedural requirements. The Contracting Officer shall rotate these micro purchases among qualified businesses, with a focus on Disadvantaged Business Enterprises (DBE).

For procurements totaling \$3,500 or less, the Contracting Officer or designee may utilize phone quotes or other appropriate means to ensure that a fair and reasonable price is paid. Verbal quotes are recorded and included in the procurement file documentation.

For purchases of more than \$3,500, the Small Purchasing requirements apply. .

Section 4.04 Small Purchases

Materials, Supplies, Equipment and Services and Public Works that are greater than \$3,500 and less than or equal to \$150,000 or the City of Fresno's formal bid limit:

Purchases in this range require written quotes to be solicited from at least three (3) Vendors. The Contracting Officer must make the determination that the price offered as fair and reasonable utilizing a price or cost analysis. The award is made to the proposer offering the bid or proposal most advantageous to the City. Small Purchase can be solicited utilizing either a quotation that contemplates award to the lowest evaluated price or may consider factors in addition to price. The Request for Quotation shall specify the basis for award consistent with the principles of bidding and competitive negotiations contained herein.

This process is to be documented on the bid record contained in the file documentation. A record indicating the procurement method used, the contract type, why the vendor was selected, what vendors were solicited, and how the price was determined fair and reasonable at a minimum should be documented in the procurement file. Award will be made to the firm that complies with the provisions of the request for quotations and provides the lowest responsive and responsible price or best value to the City.

Section 4.05 Formal Purchases

Materials, Supplies, Equipment, Public Works and Services greater than \$150,000 or the City of Fresno s formal bid limit:

Purchases of this amount require an appropriate formal competitive procurement process and must have the approval of the Purchasing Manager. Technical specifications and requirements will be prepared by the appropriate department head and submitted to the Contracting Officer, or designee, who will prepare and release appropriate Invitations for Bids (IFBs), Request for Proposals (RFPs), Request for Qualifications (RFQs), or comparable procurement methods . Authorization from the City Council is necessary to award of an IFB, RFP, RFQ, or other, above this threshold.

A record indicating the procurement method used, the contract type, why the vendor was selected, and how the price was determined fair and reasonable at a minimum should be documented in the procurement file.

Article V. Requests for Proposal

Section 5.01 Competitive Proposals

Competitive proposals are to be used when:

- a) The items desired cannot be precisely defined, described or standardized;
- b) The contract is for research and development with an end product that may be conceptual in nature;
- c) The technical aspects and price may be negotiated;
- d) Discussions may be necessary during the solicitation process;
- f) Quantity and contractual factors must be considered along with price; or
- g) Artistic and aesthetic value are more important considerations in evaluating the proposal than the price;

The following steps are taken in competitive proposal procurements:

- a) **Review of the Requisition and Independent Cost Estimate**
The Contracting Officer shall review the requisition to insure that it has the proper approvals, that the requisition is accompanied by a sufficient technical description of the work to be performed, and that an Independent Cost Estimate accompanies the requisition.
- b) **Request for Proposal Scoring and Evaluation**
The Contracting Officer shall determine, in coordination with the Project Manager and end customer what factors shall be considered in addition to price. The factors that will serve as the basis of the award shall be clearly stated in the RFP. Price must be a factor in all RFPs except for solicitations for Architectural and Engineering Services.

Typical Factors are:

- a) Contractor Experience on Similar Projects;
- b) Experience of Project Management Personnel;
- c) Past Performance;
- d) Clarity of Work Statement;
- e) Price.

The factors shall be stated in the RFP including a statement of the relative value of each item. The relative value of technical factors shall be stated in terms that communicate to the potential offerors that the price is worth more, less or the same as all technical factors combined.

. Numerical ratings are affective when conducting qualifications based selections for Architect and Engineering Services where price will not be rated. Adjectival ratings are appropriate when it is important to avoid inadvertent price and technical trade-offs. Adjectives such as Superior, Satisfactory, Marginal, and Unsatisfactory may be used. Color ratings may also be used such as Blue, Green, Yellow and Red. As long as the ratings are assigned an objective definition used to discriminate among the proposals, they may be used in the evaluation of the RFP. When Adjectival ratings are used, the award will be made based on the

proposal providing the best value to the City when price and other factors are considered.

A minimum score in each technical area must be established to avoid awarding a contract to a vendor who has an unacceptable rating in any of the technical areas.

The evaluation factors and sub-factors to be used in scoring by the evaluation team must be developed prior to reviewing the proposals.

c) Prepare Request for Proposals (RFP)

A Request for Proposal consists of a number of provisions, both project specific and general. The department initiating the procurement should prepare project specific provisions of the RFP in coordination with the Contracting Officer. Contracting Officer is responsible for general provisions and for assembly of the RFP and ensuring that it complies with all procurement policies and is consistent with all-applicable Federal, State and Local procurement rules and regulations.

The project specific sections of the RFP shall specifically describe the actual minimum materials and/or services needed; the time for providing same; the procedure by which a prospective offeror may examine plans and specifications, if any; the criteria by which proposals will be evaluated and the relative importance of each factor, and the closing date for submission of proposals which must give sufficient time to permit a proper response.

d) Develop Proposers List

The department initiating the procurement shall develop a list of prospective Proposers. In addition, the Contracting Officer shall maintain a file of Proposers interested in particular types of contracts. Prospective contractors should possess the ability to perform successfully, a good record of past performance, integrity, adequate financial and technical resources, and any other relevant factors.

The Proposers list shall be developed with consideration of the City's DBE program.

e) Methods and Timing of Soliciting Proposals

As a goal, The City will attempt to provide not less than 28 calendar days for preparation of proposals in competitive proposal procurements.

At least three (3) financially and technically qualified prospective bidders will be notified of the RFP, if possible. Pre-invitation notices may be furnished to a sufficient number of prospective bidders so as to elicit adequate competition.

Notices inviting proposals shall be displayed at the City's Purchasing office, or at other appropriate public places such as the City website and shall be published no less than one time in a newspaper of general circulation and may be published in trade journals and magazines as deemed necessary or appropriate. Publication in a newspaper shall allow sufficient time for a responding party to submit a proposal but in no case shall the publication be made less than 10 days prior to the

proposal due date.

f) Pre-Proposal Conference

A pre-proposal conference may be used as a means of briefing prospective bidders and explaining complicated specifications and requirements to them as early as possible after the RFP has been issued and before the proposals are opened. The pre-bid conference shall never be used as a substitute for amending a defective or ambiguous request. Attendance by potential bidders or proposers may be mandatory or voluntary depending on the circumstances of the procurement.

g) Amendments of RFP's

If after issuance of requests for proposals, but before the time set for opening of proposals, it becomes necessary to make changes in quantities, specifications, delivery schedules, opening dates, etc. or to correct or clarify a defective or ambiguous RFP, the period of time remaining until the time set for proposal submittal and the need for extending this time must be considered. Where only a short time remains, consideration should be given to notifying bidders of an extension of time by fax, e-mail or telephone. Such notification should be confirmed in the amendment.

Any information given to a prospective bidder concerning an RFP shall be furnished promptly to all other prospective proposers as an amendment to the RFP if the lack of such information would be prejudicial to uninformed proposers and such clarification of information may be a consideration affecting any proposers' response to the solicitation. The amendment shall be sent to each concern to which the RFP has been furnished.

Each amendment issued to a Request for Proposals shall:

- a) Be serially numbered and dated;
- b) Include the number, date and a description of the original RFP concerned;
- c) Clearly state the changes made in the RFP and the extension of the due date, if any; and
- d) Include instructions to bidders for acknowledging receipt of the amendment and information concerning the effect of failure to acknowledge or return the amendment.

h) Cancellation of RFP's

Requests for Proposals should not be canceled unless cancellation is clearly in FAX's interest (e.g., such as where there is no longer a requirement of the material or service or where amendments to the request would be of such magnitude that a new request is desirable). Where a request is canceled, proposals, which have been received, shall be returned unopened to the proposers and a notice of cancellation shall be sent to all prospective proposers to whom RFPs were issued.

The notice of cancellation shall identify the Request for Proposals; briefly explain the reason the request is being canceled; and where appropriate assure prospective proposers that they will be given an opportunity to compete on any re-

solicitation of proposals or any further requirements for the type of material or service involved.

If the Request for Proposals is cancelled before the time set for proposal submittal, this fact shall be recorded in the file, together with a statement of the number of concerns invited to submit proposals and the number of proposals received.

i) Receipt of Proposals

Proposals shall be submitted so as to be received in the office designated in the Request for Proposals not later than the exact time set in the Request for Proposals. The receipt of a late proposal may be grounds for disqualification. The only acceptable evidence to establish the time of receipt at the Purchasing office is the time/date stamp of which shall be placed on the proposal wrapper immediately upon receipt. . The timeliness of proposals is the sole responsibility of the proposer.

j) Modification or Withdrawal of Proposals

Any Bidder may withdraw their proposal, either personally or by telegraphic or written request, received by the Purchasing Department at any time prior to the time fixed for the receipt of the proposals. Negligence on the part of Bidders in preparing their proposal confers no right of withdrawal of their proposal after such proposal has been opened. .

k) When to Conduct Negotiations

Subject to the exceptions below, after receipt of initial proposals, written or oral discussions may be conducted with all responsible and responsive offerors who submit proposals within a competitive range when price and other factors are considered. If discussions are conducted with an offeror, discussions must be conducted with all offerors within the competitive range. Offerors shall be notified if their proposals are no longer under consideration and they have been excluded from the competitive range. No information or debriefing will be held with excluded offerors until the award recommendation has been made.

Discussions are not mandatory and the City shall reserve the right to accept initially priced offers. Discussion after receipt of initial proposals is not required in the following cases:

- a) Procurement is for supplies for which prices or rates are fixed by law or regulation;
- b) Time for delivery will not permit discussions;
- c) The procurement is for a product and, due to the existence of adequate competition or accurate prior cost experience, it can be clearly demonstrated that acceptance of an initial proposal would result in a fair and reasonable price

l) Subject Matter of Negotiations

Discussions may be held to provide clarifications, point out deficiencies in a particular proposal, and to gain information necessary towards making an award decision. Restrictions on the information that may be revealed to the offerors by

City personnel during the course of negotiations include:

- a) City personnel shall not furnish information to a potential supplier which may afford them an advantage over other suppliers;
- b) After receipt of initial proposals no information contained in any proposal or information regarding the number or identity of offerors shall be made available until the bid is awarded;
- c) When it is necessary to rectify ambiguities, mistakes or omissions, an appropriate amendment shall be furnished to all offerors in a timely manner; or
- d) "Auction techniques", such as advising offerors of their price relationship with others, are prohibited.

Whenever negotiations are conducted with several offerors, while such negotiations may be conducted successively, all offerors selected to participate in such negotiations shall be offered an equitable opportunity to submit such price, technical, or other data necessary as a result of the negotiations. All such offerors shall be informed of the specified date (and time if desired) of the closing of negotiations. Revisions to proposals must be submitted by such date.

Where the Request for Proposals sets forth one requirement and after receipt of proposals, either due to change or innovation by an offeror, it becomes apparent that the project needs may be better fulfilled in another manner within the general scope of the solicitation, all offerors shall be appropriately advised in writing by an amendment and further discussions or negotiations shall follow.

m) Conduct of Negotiations

Evaluation of offerors' or contractors' proposals, including price revision proposals, by all personnel concerned with the procurement, as well as subsequent negotiations with the offeror or contractor shall be completed expeditiously.

Complete agreement of the parties on all basic issues shall be the objective of the contract negotiations.

Oral discussions or written communications shall be conducted with offerors to the extent necessary to resolve uncertainties relating to the purchase or to the price to be paid. Discussions and clarifications may be held but the Contracting Officer must be careful not to share technical information regarding any particular proposal with another proposer, as technical leveling is not permitted. Basic questions should not be left for later agreement during price revision or other supplemental proceedings.

Cost or profit figures of one offeror or contractor shall not be revealed to other offerors or contractors.

Price or cost analysis should be made in connection with every negotiated procurement action including contract modifications. Price Analysis is appropriate

when an evaluation can be made without the submission of cost data supporting each element of the proposed price. Cost Analysis shall be performed when the proposer is required to submit cost data in order to evaluate their cost proposal.

n) Notice Closing Negotiations

Such notice shall advise offerors that:

- a) Negotiations are being conducted;
- b) Offerors are being asked for their “best and final” offer, not confirm or reconfirm prior offers;
- c) Any revision or modification of proposals must be submitted specified by the date

o) Determining Reasonableness of Price

Price analysis is the process of examining and evaluating a prospective price without evaluation of the separate cost elements or proposed profit of the prospective supplier.

Cost analysis is the review and analysis of a contractor’s cost or pricing data and of the factors applied in projection from the data to the estimated costs, in order to form an opinion on the degree to which the contractor’s proposed costs represent what performance of the contract should cost, assuming reasonable economy and efficiency.

As compared to price analysis, cost analysis involves a more detailed review of the offeror’s proposal and is used where the City has less assurance of a fair and reasonable price.

The following procedure for cost analysis is to be followed:

- a) Verify contractor’s cost data;
- b) Evaluate specific elements of costs and project this data to determine the effect on prices of such factors as:
 - a) The necessity for certain costs,
 - b) The reasonableness of amounts estimated for the necessary costs,
 - c) Allowances for contingencies, and
 - d) The basis used for allocations of particular overhead costs to the proposed contract;
- c) When the necessary data is available, compare the contractor’s estimated cost with:
 - a) Actual costs previously incurred by the contractor,
 - b) The contractor’s last prior cost estimate for the same or similar estimates,
 - c) Current cost estimates from other possible sources, and
 - d) Prior estimates or historical costs of other contractors manufacturing the same or similar items;
- d) Forecasting future trends in costs from historical experience:
 - a) In periods of either rising or declining costs, an adequate cost analysis must include some evaluation of the trends,
 - b) In cases involving recently developed, complex, equipment, even in periods of relative stability, trend analysis of basic labor and materials costs

should be undertaken.

In performing a cost analysis, there are three questions that should be asked in the examination of costs, particularly those in the overhead area:

Is the cost allowable in accordance with guidelines in Part 31 of the Federal Acquisition Regulations (FAR) and OMB Circular A-87;
Is the cost allocable to the particular project; and
Is the cost reasonable?

p) **Basis of Award**

A proposal evaluation team shall be assembled. The team must include at least three members familiar with the requirements of the solicitation. The requesting department should be a member of this team. Detailed evaluation criteria must be developed prior to the receipt of proposals. The proposal review team must use the detailed criteria in order to determine the successful proposal. The criteria used must support the criteria listed in the solicitation as the basis of award.

The Contracting Officer, whom shall chair the review committee, tallies the evaluation results. All members of the team shall complete and sign evaluation sheets recording the results of their evaluation. The Contracting Officer shall have all members complete a conflict of interest form to insure that no conflict of interest exists between the evaluators and the contractors being evaluated.

After evaluations of proposals in accordance with the criteria set forth in the RFP, the contract shall be awarded to the offeror of the proposal most advantageous to the City, price and other factors considered.

Contracts shall be awarded to responsible and responsive contractors who possess the ability to perform successfully under the Terms and Conditions of the proposed procurement action. As is the case with procurements made by competitive bid, consideration shall be given to such matters as contractor integrity, record of past performance, financial and technical resources, or accessibility to other technical resources.

Section 5.02 Best Value

The City can obtain best value in negotiated acquisitions by using any one or a combination of source selection approaches. In different types of acquisitions, the relative importance of cost or price may vary. For example, in acquisitions where the requirement is clearly definable and the risk of unsuccessful contract performance is minimal, cost or price may play a dominant role in source selection. The less definitive the requirement, the more development work required, or the greater the performance risk, the more technical or past performance considerations may play a dominant role in source selection.

Article VI. Invitations for Bid

a) IFB

Prior to initiating a formal procurement action, the Contracting Officer shall review the Purchase Requisition and insure that the requisition adequately describes the goods or services being procured and that an Independent Estimate has been obtained. The Contracting Officer shall also review the requisition to insure that it contains the proper approvals.

Invitations for Bid (IFBs) consist of a number of provisions, some of which are general depending on the type of solicitation and some of which are project specific. In general, the department initiating the procurement prepares project specific provisions of an IFB and the Contracting Officer prepares the general provisions. The Contracting Officer is ultimately responsible for assembly of the IFB and ensuring that it meets all procurement policies and is consistent with all applicable federal, State and local procurement rules and regulations.

Examples of some of the project specific provisions of an IFB include:

- a) Contract specifications, which describe requirements for the supplies, equipment, construction or services to be delivered under the terms of the contract. It indicates to prospective contractors precisely what the City requires.
- b) The specifications also establish the procedures by which it will be determined that all requirements of the contract have been met.
- c) Design specifications, which describe in detail the data necessary to produce an item such as the size and dimensions, physical characteristics, quality test, etc.
- d) Performance specifications, which express the desired performance characteristics in terms of output, function or operation of items and equipment.
- e) Public Works license requirements, bonding requirements, insurance requirements, and add / delete quantities.

(NOTE: Combinations of the above are also used to meet the requirements of a purchase transaction. The exact combination of specifications should be fashioned to meet the needs of each purchase.)

- f) A statement of work, which defines the work required of a contractor, either to develop the equipment being delivered to satisfy the prime mission of FAX, or to compliment the procured items being delivered, or to provide services being procured without a portion of the total procurement being delivered.

The basic distinction between the specification and the statement of work is that the specification defines minimum standards of the item to be procured, while the statement of work defines minimum work to be accomplished by the contractor under the contract.

IFBs shall be worded as precisely as possible. Ambiguous or incomplete specifications can result in unnecessary delays and costly errors. Special care must be taken to ensure that the specifications are not exclusionary or overly restrictive. No discussions are allowed during the bidding process.

The specification 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. When it is impractical or uneconomical for the department initiating the procurement to make a precise description of the technical requirements of the buy, a "brand name or approved equal" description may be used in solicitations.

b) Advertising

The department initiating the procurement shall develop a list of prospective bidders and include those recommendations on the Purchase Requisition. In addition the Contracting Officer shall maintain a file of bidders interested in particular types of contracts. Prospective contractors shall possess the ability to perform successfully, a good record of past performance, integrity, adequate financial and technical resources, and any other factors relevant to the specific item being contracted.

The bidders list shall be developed with consideration of the City's DBE program.

As a goal, the City will attempt to provide at least 14 days for standard procurements and not less than 28 calendar days when procuring non-standard items.

At least three financially and technically qualified prospective bidders shall be notified, if possible. Pre-invitation notices may be furnished to a sufficient number of prospective bidders so as to elicit adequate competition as stated in the RFB, RFI, and RFQ etc.

Notices inviting bids shall be published at least once in a newspaper of general circulation at least ten (10) days prior to bid opening and may be published in trade journals and magazines as deemed necessary or appropriate.

A pre-bid conference may be used as a means of briefing prospective bidders and explaining complicated specifications and requirements to them as early as possible after the invitation has been issued and before the bids are opened. The pre-bid conference will not be used as a substitute for amending a defective or ambiguous invitation. Attendance by potential bidders may be mandatory if their attendance is essential to understanding the solicitations requirements, or voluntary if responsive bids can be received without the conference.

If after issuance of invitations for bids, but before the time set for opening of bids it becomes necessary to make changes in quantities, specifications, delivery

schedules, opening dates, etc. or to correct or clarify a defective or ambiguous invitation, such changes shall be accomplished by issuance, in writing, of an amendment to the Invitation For Bids. The amendment shall be sent to each prospective bidder to whom the Invitation For Bids has been furnished.

Each amendment issued during an Invitation For Bid shall:

- a) Be serially numbered and dated.
 - b) Include the number, date and a description of the original Invitation For Bids concerned.
 - c) Clearly state the changes made in the Invitation For Bids and the extension of the opening date, if any.
 - d) Include instructions to bidders for acknowledging receipt of the amendment and information concerning the effect or failure to acknowledge and return the amendment.
 - e) Before issuing an amendment to an Invitation For Bids, the City will take into consideration the period of time remaining until the time set for opening and the need for extending the time set of opening must be considered. Where only a short time remains before the time set for opening, consideration shall be given to notifying bidders of an extension of time by fax or telephone. Such notification should be confirmed in the amendment.
 - f) Any information given to a prospective bidder concerning an Invitation For Bids shall be furnished promptly to all other prospective bidders as an amendment to the invitation. If such information is necessary to bidders in submitting bids on the invitation or if the lack of such information would be prejudicial to uninformed bidders no award shall be made on the invitation unless such amendment has been issued in sufficient time to permit all prospective bidders to consider such information in submitting or modifying their bids.
- c) **Bid Cancellation**
Invitations For Bids shall not be canceled unless cancellation is clearly in the City's interest (e.g., where there is no longer a requirement for the material or service, or where amendments to the invitation would be of such magnitude that a new invitation is desirable). When an invitation is canceled, bids which have been received shall be returned unopened to the bidders and a notice of cancellation shall be sent to all prospective bidders to whom invitations for bids were issued.

The notice of cancellation shall identify the Invitation For Bids; briefly explain the reason the invitation is being canceled; and where appropriate, assure prospective bidders that they will be given an opportunity to bid on any re-solicitation of bids or any further requirements for the type of material or service involved.

If the Invitation For Bids is canceled before the time for bid openings, this fact shall be recorded in the file, with a statement of the number of concerns invited to bid and the number of bids received. The Purchasing Manager or designee shall be authorized to cancel bids.

Bids shall be submitted so as to be received in the office designated in the

Invitation For Bids not later than the exact time set for the receipt of bids. The only acceptable evidence to establish the time of receipt at the Purchasing office is the time/date stamp which shall be placed on the bid wrapper immediately upon receipt.. The timeliness of bids is the sole responsibility of the bidder.

d) Withdrawal of Bids

Any Bidder may withdraw their bid, either personally, by e-mail, or by written request, received by the City, at any time prior to the time fixed for the receipt of the bids; by contacting the Purchasing Unit. Negligence on the part of Bidders in preparing their bid confers no right of withdrawal of their bid after such bid has been opened. No bid may be withdrawn after bid opening.

e) Bid Opening

All bids received prior to the time set for opening shall be recorded and kept unopened and secured in a safe place.

Prior to bid opening, information concerning the identity and number of bids received shall be made available only to City employees who have the proper need for such information. When bids are submitted, they shall be handled with sufficient care to prevent disclosure of their characteristics before bid opening.

Unidentified bids may be opened solely for the purpose of identification and then only by an authorized official of the City. If a sealed bid is opened by mistake or for purposes of identification, the official shall immediately write on the envelope an explanation of the opening, the date and time opened, the Invitation For Bid number and their signature. Bids opened by mistake or for identification purposes shall be resealed in the envelope and no information contained therein shall be disclosed prior to the public bid opening.

The Contracting Officer in charge of the solicitation shall decide when the time set for bid opening has arrived and shall so declare to those present.

All bids received at the time set for receipt shall be publicly opened, and when practical, read aloud by the Contracting Officer to the persons present. The bids received shall be recorded. If it is impractical to read the entire bid, as where many items are involved, the total amount of the bid shall be read if feasible.

A second City employee shall be present to witness the opening and reading of the bids to verify its accuracy.

The original of each bid shall be carefully safeguarded, particularly until the abstract of bids has been made and its accuracy verified.

Performance of the bid opening procedure may be delegated to an assistant, but the Contracting Officer remains fully responsible for the actions of such assistant.

Examination and evaluation of original bids by other interested individuals may be

made only under the immediate supervision of the Contracting Officer in charge of the solicitation (or his/her designee) and under conditions which preclude the possibility of a substitution, addition, deletion, or alteration in the bids. Copies may be distributed to interested FAX officials for evaluation.

The original bid form shall not be allowed to pass out of the hands of the Contracting Officer or his/her designee. A copy of each bid must be maintained in FAX's procurement files in lieu of such originals for the interim period.

All bids, including attachments and envelopes, shall be retained for the official files.

f) Recording of Bids

The Invitation For Bid number, bid opening dates and time, general description of the procurement item, names of bidders, prices bid and any other information required for bid evaluation, shall be entered on the official record of abstract form and shall be available for public inspection. When the items are too numerous to warrant the recording of all bids completely, an entry shall be made of the invitation number, opening date and time, general description of the procurement items, and the total price bid where definite quantities are involved.

The official record or abstract shall be completed as soon as practical after bids have been opened and read aloud. The Contracting Officer in charge of the solicitation and a second employee shall certify the accuracy of the record. The Purchasing Department shall be responsible for maintaining files for these records.

The file of the Invitation For Bids shall show the distribution, which was made and the date thereof. The names and addresses of prospective bidders requesting the Invitation For Bids who were not included on the original solicitation list shall be added and made a part of the record.

Bids shall be evaluated on the basis of responsiveness and responsibility indicated in the Invitation For Bids. Award shall be made to the bidder submitting the lowest bid, unless the City determines that the bid is not responsive and/or the bidder is found to be not responsible. Award may be made on a line item level or on a bottom line bases taking into consideration the administrative costs. The Bid shall contain a statement regarding the City's rights to make award based on the line items or lump sum.

g) Bid Evaluation

If less than three bids have been received, the Contracting Officer may examine the reasons for the small number of bids received. This examination may include calling potential bidders who did not respond to the solicitation to see if there were restrictive provisions in the bid documents, or if any other element of free and open competition was lacking. A price or cost analysis shall be performed to establish the reasonableness of the bid price before an award is made.

A price or cost analysis shall be used to determine the reasonableness of the bid

price.

The Contracting Officer shall conduct a price analysis to evaluate a bid price based on adequate price competition. If a valid price analysis cannot be completed, support personnel may be requested to assist with a cost analysis of the bid price.

Price analysis is the process of examining and evaluating a bid price without evaluation of the separate cost elements and proposed profit of the individual prospective supplier whose price is being evaluated. Normally, price analysis may be accomplished through one or more of the following activities:

- a) A comparison of the bid prices.
- b) The comparison of prior quotations and contract prices with current quotations for the same or similar end items (to provide a suitable basis for comparison, appropriate allowances must be made or differences in such factors as specifications, quantities ordered, time for delivery, etc.);
- c) The use of "yardsticks" (such as dollars per pound, per horsepower, or other units) to point up apparent gross inconsistencies which should be subjected to greater pricing inquiry;
- d) The comparison of prices set forth in published price lists issued on a competitive basis, published market prices or commodities, and similar indicators, together with discount or rebate arrangements;
- e) The comparison of proposed prices with estimates of cost independently developed by personnel with FAX; or
- f) The comparison of prices paid by others (government or commercial) of the same or similar items to the proposed prices.

If only one bid is received, the sole bidder must cooperate with the City as necessary in order for its bid to be considered for award. A new solicitation of bids may be made if the single bid price appears unreasonable or if no determination is made as to the reasonableness of cost of the single bid.

h) Bid Rejection

Preservation of the integrity of the competitive bid system dictates that after bids have been opened, award must be made to that responsible bidder who submitted the lowest responsive bid, unless there is compelling reason to reject all bids and cancel the invitation.

Every effort shall be made to anticipate changes in a requirement prior to the date of bid opening and to notify all prospective bidders of any resulting modification or cancellation, thereby permitting bidders to change their bids and preventing unnecessary exposure of bid prices.

As a general rule, after opening, an Invitation For Bids should not be canceled and re-advertised due solely to increased requirements for the items being procured. Award should be made on the Invitation For Bids and the additional quantity should be treated as a new procurement.

Invitations for bids may be canceled after opening but prior to award, and all bids rejected, where it is consistent with Federal, State, and local procurement regulations. A written determination must be included in the Invitation For Bid file stating that cancellation is in the best interest of the City for reasons such as the following:

- a) Inadequate, ambiguous, or otherwise deficient specifications were cited in the Invitation For Bids;
- b) The supplies or services are no longer required;
- c) The Invitation For Bids did not provide for consideration of all factors of cost to FAX;
- d) Bids received indicate that the needs of FAX can be satisfied by a less expensive item differing from that on which bids were received;
- e) All otherwise acceptable bids received are at unreasonable prices;
- f) The bids were not independently arrived at in open competition, were collusive, or were submitted in bad faith. Such situation must be substantiated and reported to the City; or
- g) The bids received did not provide adequate competition to ensure reasonable prices. A price or cost analysis shall be used to establish the reasonableness of price.

The City may reject bids received and proceed to purchase supplies, equipment or materials in the open market without further observance of the provisions regarding contracts, bids or notice if it is determined that the supplies, equipment or materials may be purchased at a lower price in the open market. Such an action must be approved by City Council if the purchase amount exceeds the Formal Bid limit approval threshold. For lesser amounts, the Director of Transportation's approval is required.

If administrative difficulties are encountered after bid opening which may delay award beyond bidder's 60 day acceptance periods, all bidders shall be requested, before expiration of their bids, to extend the bid acceptance period (with consent of sureties, if necessary) in order to avoid the need for a re-advertisement.

When it is determined to reject all bids, the Purchasing Unit shall notify each bidder that all bids have been rejected and stating the reason for such action.

Normally, any bid which fails to conform to the essential requirements of the Invitation For Bids, such as specifications, delivery schedule, warranty, or the required bid documents, shall be rejected as non-responsive.

A bid shall be rejected where the bidder imposes conditions, which modify requirements of the Invitation For Bids. For example, bids may be rejected in which the bidder:

- h) Attempts to protect themselves against future changes in conditions such as increased costs, if a total price to FAX cannot be determined for bid evaluation;
- i) Fails to state a price and in lieu thereof states that price shall be

“price in effect at the time of delivery”;

- j) States a price but qualifies such price as being subject to “price in effect at time of delivery”;
- k) Where not authorized by the Invitation For Bid, conditions or qualifies his/her bid by stipulating that the bid is to be considered only if, prior to date of award, bidder received or does not receive award under a separate procurement.
- l) Limits rights of the City under any contract clause;
- m) Fails to meet DBE requirements;
- n) Modifies the bid documents;
- o) Fails to list subcontractors on public works bids when the subcontracted work exceeds ½ of 1 percent;
- p) Fails to comply with all of the requirements of the IFB.

Bids received from any person or firm debarred or ineligible shall be rejected if the period of debarment or ineligibility has not expired.

Low bids received from firms determined to be not responsible pursuant to Federal, State or local procurement regulations shall be rejected.

A bid may be rejected if a bid guarantee is required and a bidder fails to furnish it in accordance with the requirement of the Invitation For Bids.

The originals of all rejected bids, and any written findings with respect to such rejections, shall be preserved in the file relating to the procurement.

After submitting a bid, if a bidder transfers all of his/her assets or that part of his/her assets related to the bid during the period between the bid opening and the award, the transferee may not take over the bid, thus the City may reject the bid.

i) Award

Unless all bids are rejected, Council shall make award by written notice, within the time for acceptance specified in the bid or extension thereof, to the lowest responsible and responsive bidder. When specified in bidding documents, factors such as discounts, transportation costs, and life cycle costs shall be considered in determining which bid is the lowest. Payment discounts will only be used when history determines that the discount is likely to be earned.

When an award decision has been made, notification shall be made by mailing all bidders of a notice of intent to award naming the selected bidder. The Notice of Intent to Award shall officially start the protest period. If no protest is received within the protest period, then a Notice of Award shall be sent to the selected contractor along with all contract documents. The successful bidder shall complete and execute the contract documents, and provide proof of insurance and /or bonding to the City within the time specified. The City will finalize the execution of the contract and send a copy to the successful bidder.

Article VII. Other Procurement Methods

Section 7.01 Request for Qualifications/ A&E Proposals

Competitive Negotiations procedures are to be followed with the exception of the deviations stated herein. FTA Circular 4220.1F and Government Code 4526 requires that FAX use competitive negotiation procedures for qualification-based procurement of architectural and engineering (“A/E”) services and related services such as program management, construction management, feasibility studies, preliminary engineering, design, surveying, mapping, or related services. Price is not used as a factor in determining the most qualified proposer.

Following this method, competitor’s qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. Under this method, the competitors meeting the minimum requirements of the solicitation are ranked. The highest ranked proposer is then invited to enter into negotiations. The objective of the negotiations is to agree on a fair and reasonable price for the proposed work. The Independent Cost Estimate supported by a price or cost analysis will determine the basis of the pricing target for FAX. FAX may require an audit of the contractor’s proposal prior to final payment.

The steps to be used for proposal evaluation and contract negotiations for A/E contractors are as follows:

- a) The Evaluation team is assigned by the Contracting Officer after consultation with the using Department and/or Transportation Director to review eligible firms and all responses to RFP;
- b) The Team evaluates the firms based on criteria such as:
 - a) Professional qualifications for performance of the required services,
 - b) Specialized experience and technical competence in the type work required,
 - c) Capacity to accomplish the work in the required time,
 - d) Past performance in terms of cost control, quality of work and compliance with performance schedules;
- c) The Evaluation team may hold discussions with the most highly qualified firms (“short list”) to obtain clarity on particular aspects of their proposal;
- d) The Evaluation team prepares a selection report for the Contracting Officer recommending, in ranked order, those firms that are considered to be the most highly qualified to perform the required services;
- e) The Contracting Officer shall make the final selection from a list of the most highly qualified firms prepared by the evaluation team;
- f) After the final selection has taken place, the Contracting Officer may release information identifying the rankings and the firm with whom negotiations will be attempted. If negotiations are terminated without awarding a contract to the highest rated firm, FAX may release information that negotiations will take place

- with the next highest rated firm. Notice shall be provided to firms when negotiations have been terminated;
- g) The final selection authority authorizes negotiations to begin with the most qualified firm, which includes fees and cost estimates;
 - h) The negotiation of compensation to the contractor should represent a fair and equitable payment for the services performed. At this stage, negotiations must take place not only on the amount of compensation, but also the method of payment;
 - i) In determining the amount of compensation and the method of payment, consideration shall be given to:
 - a) Scope and complexity of designs, surveys and other work and the skills necessary for these services,
 - b) Quality and quantity of data provided to the A/E by FAX,
 - c) Location of, and conditions under which, the services will be performed,
 - d) Date services to begin and time allowed for performance;
 - j) Costs should be negotiated taking into consideration:
 - a) Direct labor,
 - b) Overhead,
 - c) General and administrative expenses,
 - d) Materials,
 - e) Other direct costs, and
 - f) Profit, which is further influenced by:
 - g) Degree of A/E's risk, ii. Level of effort,
 - h) Level of talent or expertise the A/E must furnish iv. Amount of subcontracting,
 - i) Amount of top level A/E management involved, vi. Subcontracts, and
 - j) Contractors investment;
 - k) When the contract is negotiated and signed, the negotiations are documented and placed in the file;
 - l) The contract shall be monitored to ensure that expenditures and payments therefore are commensurate with performance and that both have met all the terms of the contract; and
 - m) The contractor is responsible for the professional quality, technical accuracy and coordination of all services under the contract. The contractor may be liable to the City for costs resulting from errors or deficiencies in design furnished under the terms of the A/E contract.

Section 7.02 Non-Competitive Procurements

Federal regulations require that one or more of the following conditions are present for Non-Competitive Procurements (Sole or Single Source):

- a) There is a public exigency or emergency that does not allow time for competitive negotiation.
- b) The Federal Transit Administration (FTA) authorizes a non-competitive negotiation.
- c) The item(s) are available only from a single source, as a matter of fact and

not as a matter of preference or convenience.

d) The economic and operational circumstances create a situation where competition will not be effective or efficient for FAX.

e) After solicitation of a number of sources, competition is determined to be inadequate.

f) A contract amendment or change order is needed that is not within the scope of the original contract.

A written Sole or Single Source Justification shall accompany any Non-Competitive procurement transaction that would otherwise require competition.

Section 7.03 Cost Plus Percentage of Cost

Cost plus a percentage of the costs of a contract is a prohibited contract action under federal guidelines.

Section 7.04 Revenue Contracts

A revenue contract is a contract FAX or FAX's subrecipient in which FAX or the subrecipient provides access to public transportation assets either to produce revenues in connection with a public transportation related activity, or to create business opportunities with the use of an FTA assisted property. FTA requires these contracts to be awarded utilizing competitive selection procedures and principles. FTA provides the recipient broad latitude in determining the extent and type of competition appropriate for a particular revenue contract.

FAX can use the RFP, cooperative purchasing, or bidding methods delineated in this procedure to satisfy that requirement if multiple competitors may be interested in the opportunity.

Section 7.05 Cooperative Purchases/Piggybacking

The FTA encourages grantees to search federal surplus catalogues in order to avoid purchasing new items, which may exist in the government's surplus inventory.

By California State legislation, the Department of General Services, State Office of Procurement, may act as the buying agent for political subdivisions of the state. The purpose of the State Cooperative Purchase Program is to enable government entities to take advantage of discount prices available through volume purchases.

The City may enter into cooperative purchasing agreements with other governmental agencies. When FTA funds are utilized for non-state cooperative purchases, the City must comply with piggybacking rules and regulations promulgated by the FTA. In particular, FAX estimated quantities must have been contemplated in the original award agreement and the contract must contain an assignment clause that authorizes assignment of contractual rights to the City.

Improperly Expanded Scope.

FAX may not use Federal assistance to acquire property or services through another contract whose scope has been improperly expanded. FTA believes it is extremely important that the recipient ensure that it contracts only for its reasonably anticipated needs and does not add quantities or options to contracts solely to allow it to assign those quantities or options at a later date.

Improperly Expanded Quantity

FAX may not expand the quantity of property or services to be delivered under its contract beyond the scope of the contract's limits solely to assign those contract rights to another entity.

Please refer to the FTA Best Practices Procurement Manual for the latest piggybacking checklist to be included with the file documentation of a procurement action that uses an existing cooperative agreement other than one issued by the State of California.

Article VIII. Responsive and Responsibility Determinations

Responsiveness Determination:

Before awarding the contract, Purchasing shall determine those bidders that are responsive to the minimum requirements of the solicitation. A responsive bidder is one that, at a minimum:

- a) Submits products or services responsive to the RFP/Bid requirements; and
- b) Submits all required certifications and representations; and
- c) Submits a RFP/Bid and other required documents by the due date; and
- d) Complies with all Insurance and Bonding Requirements; and
- e) Otherwise complies with all RFP/Bid instructions

Responsible Bidder Evaluation:

Before awarding the contract, the Purchasing Unit shall determine that a prospective contractor is responsible and the prices are reasonable. A responsible prospective contractor is one who meets the standards forth below:

- a) Has adequate financial resources, or the ability to obtain such resources as required during the performance of the contract;
- b) Is able to comply with the required or proposed delivery or performance schedule, taking into consideration all existing business commitments, commercial as well as governmental;
- c) Has a satisfactory record of performance. Contractors who are, or have been, seriously deficient in current or recent contract performance.
- d) Has a satisfactory record of integrity and business ethics;
- e) Is otherwise qualified and eligible to receive an award under applicable laws and regulations;
- f) Has the necessary organizational, experience, operational controls; and technical skills, or the ability to obtain them; or
- g) Has the necessary production, construction, and technical equipment and facilities, or the ability to obtain them.

The Responsible determination shall be addressed in the Procurement History file documentation.

Article IX. Contract Types

Contracts are divided into specific types of compensation arrangements. The following list includes the most commonly used compensation arrangements. It is up to the Contracting Officer to decide which compensation arrangement is most appropriate for a specific procurement.

Section 9.01 Fixed Price

A firm-fixed-price contract provides for a price that is not subject to any adjustment on the basis of the contractor's cost experience in performing the contract. This contract type places upon the contractor maximum risk and full responsibility for all costs and resulting profit or loss. It provides maximum incentive for the contractor to control costs and perform effectively and imposes a minimum administrative burden upon the contracting parties. This type of arrangement should be used for commercial items where competition is present and reasonable estimates of costs may be obtained.

Fixed-price incentive

This type of arrangement is similar to a Firm Fixed Price contract but it is characterized by an adjustment formula in the contract, which relates to the efficiency of the contractor. A target profit and target cost is negotiated, along with a profit formula. The contractor's profit increases or decreases according to the formula, as the actual costs are less or more, respectively, than the target cost. The fixed-price incentive arrangement is distinguished from the cost incentive arrangement by the inclusion of a ceiling price. Costs in excess of the ceiling price are borne entirely by the contractor.

Fixed-price with price re-determination

This is essentially a Fixed Price arrangement with adjustments within specified limits negotiated, as actual costs become known. As in fixed-price escalation arrangements, FAX assumes the risk of contingencies, which may occur. The price re-determination may be made either at specified times during performance or after completion of performance. This type of arrangement should be used in limited instances only.

Section 9.02 Cost Type

A cost-reimbursement contract may be used only when:

- a) The contractor's accounting system is adequate for determining costs applicable to the contract; and
- b) Appropriate Government surveillance during performance will provide reasonable assurance that efficient methods and effective cost controls are used.

The contractor is reimbursed for costs only and receives no fee. This type of

contract is used for facilities contracts, and research and development contracts with non-profit organizations.

Cost-sharing

The contractor receives no fee and is reimbursed for only a portion of his/her costs. This type of contract is used where the benefits of a research and development contract accrue to both parties.

Cost-plus-incentive-fee

A cost-plus-incentive-fee contract is a cost-reimbursement contract that provides for an initially negotiated fee to be adjusted later by a formula based on the relationship of total allowable costs to total target costs. This contract type is used to place incentives on certain performance areas where the benefits justify the expenditure.

Cost-plus-a-fixed-fee

The contractor receives a set fee negotiated at the inception of the contract and is reimbursed for all costs allowable under established cost principles. This type of contract is used when research and developmental work is required and the contractor shares some responsibility for the proposed cost of the work effort.

Time-and-materials / labor-hour

These are contracts provided for supplies or services on the basis of direct-labor hours at specified fixed hourly rates and materials at cost. This type of contract should be used with caution. It is the least preferred method of contracting.

If this contracting method is used, the contract must include a ceiling that the contractor exceeds at their own risk. Also, the Contracting Officer must document their determination that no other contract type is suitable.

Article X. Cost and Price Analysis

The Contracting Officer is responsible for insuring that every procurement action is supported by a documented price and / or cost analysis. Price analysis is required for all purchases. The degree of analysis will vary based on the proposed price and complexity of the goods or services being procured. 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.

Independent Cost Estimates (ICE)

All requisitions must be supported by an Independent Cost Estimate prior to the receipt of bids, quotes, or proposals. The requesting department, with support from the Contracting Officer, is responsible for developing the estimate. An Independent Cost Estimate means that the estimate is derived from sources other than a prospective bidder or proposer. Independent Cost Estimates can vary depending on the complexity of the procurement action. For relatively simple procurement actions the Independent Cost Estimate can be derived from historical pricing, knowledge of the person requesting the procurement, or from other readily available information from reliable Internet sources.

For procurement actions that are fairly complex, estimating assumptions from sources familiar with the technical complexity of the contemplated procurement action should support the Independent Cost Estimate. In some cases it may be necessary to hire technical expertise to help with an accurate Independent Cost Estimate. All Independent Cost Estimates will be included with the requisition.

Price analysis

Price analysis is the process of examining and evaluating a proposed price without evaluating its separate cost elements and proposed profit.

The City may use various price analysis techniques and procedures to ensure a fair and reasonable price. Examples of such techniques include, but are not limited to, the following:

a) Comparison of proposed prices received in response to the solicitation.

Normally, adequate price competition establishes price reasonableness;

b) Comparison of previously proposed prices and previous Government and commercial contract prices with current proposed prices for the same or

similar items, if both the validity of the comparison and the reasonableness of the previous price(s) can be established;

- c) Use of parametric estimating methods/application of rough yardsticks (such as dollars per pound or per horsepower, or other units) to highlight significant inconsistencies that warrant additional pricing inquiry;
- d) Comparison with competitive published price lists, published market prices of commodities, similar indexes, and discount or rebate arrangements;
- e) Comparison of proposed prices with independent FAX cost estimates;
- f) Comparison of proposed prices with prices obtained through market research for the same or similar items; and
- g) Analysis of pricing information provided by the offeror.

The first two techniques are the preferred techniques. However, if the Contracting Officer determines that information on competitive proposed prices or previous contract prices is not available or is insufficient to determine that the price is fair and reasonable, the Contracting Officer may use any of the remaining techniques as appropriate to the circumstances applicable to the acquisition.

Value analysis can give insight into the relative worth of a product and the City may use it in conjunction with the price analysis techniques listed in this section.

Cost analysis

Cost analysis is the review and evaluation of the separate cost elements and profit in an offeror's or contractor's proposal (including cost or pricing data or information other than cost or pricing data), and the application of judgment to determine how well the proposed costs represent what the cost of the contract should be, assuming reasonable economy and efficiency.

The City may use various cost analysis techniques and procedures to ensure a fair and reasonable price, given the circumstances of the acquisition. Such techniques and procedures include the following:

- a) Verification of cost or pricing data and evaluation of cost elements, including
 - a) The necessity for, and reasonableness of, proposed costs, including allowances for contingencies,
 - b) Projection of the offeror's cost trends, on the basis of current and historical cost or pricing data,
 - c) Reasonableness of estimates generated by appropriately calibrated and validated parametric models or cost-estimating relationships, and
 - d) The application of audited or negotiated indirect cost rates, labor rates, and cost of money or other factors;
- b) Evaluating the effect of the offeror's current practices on future costs.

In conducting this evaluation, the Contracting Officer shall ensure that the effects of inefficient or uneconomical past practices are not projected into the future. In pricing production of recently developed complex equipment, the Contracting Officer should perform a trend analysis of basic labor and materials, even in periods of relative price stability;

- c) Comparison of costs proposed by the offeror for individual cost elements with:
 - a) Actual costs previously incurred by the same offeror,
 - b) Previous cost estimates from the offeror or from other offerors for the same or similar items,
 - c) Other cost estimates received in response to the FAX's request,
 - d) Independent Government cost estimates by technical personnel, and
 - e) Forecasts of planned expenditures;
- d) Verification that the offeror's cost submissions are in accordance with the contract cost principles and procedures in Part 31;
- e) Review to determine whether any cost or pricing data necessary to make the contractor's proposal accurate, complete, and current have not been either submitted or identified in writing by the contractor. If there are such data, the Contracting Officer shall attempt to obtain them and negotiate, using them or making satisfactory allowance for the incomplete data;
- f) Analysis of the results of any make-or-buy program reviews, in evaluating subcontract costs.

Article XI. Contract Financing

Section 11.01 Advance Payments

FTA does not authorize and will not participate in funding payments to a contractor prior to the incurrence of costs by the contractor unless prior written concurrence is obtained from FTA. There is no prohibition on a grant recipient's use of local match funds for advance payments. However, advance payments made with local funds before a grant has been awarded, or before the issuance of a letter of no prejudice or other pre-award authority, are ineligible for reimbursement.

Section 11.02 Progress Payments

FAX 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) The grantee must obtain adequate security for progress payments. Adequate security may include taking title, letter of credit or equivalent means to protect the grantee's interest in the progress payment.

Upon receipt, the packing slip is compared to the goods received. A visual inspection of the items received is then conducted. If the items are acceptable by receiving personnel, the packing slip is signed and dated. The items received, date received, packing slip number, and back order quantities are to be noted in the record keeping system. These documents will then be sent to the Finance Department and will constitute approval to pay as received.

The Project Manager or FAX technical representative is responsible for the receipt of services, upon completion, the Project Manager or technical representative will sign all documents that confirm the proper completion of services performed and forward the receiving document to the Finance Department to constitute approval to pay as received.

Section 11.03 Milestone Payments

Milestone payments can be made for progress that represents a percentage of the total cost of a particular item to be delivered. Milestone payments are typical for buses, which have a significant capital cost associated with their production. This payment method should only be considered if the period of performance for the manufactured item is in excess of 6 months.

Section 11.04 Liquidated Damages

The City may use liquidated damages if it may reasonably expect to suffer damages and the extent or amount of such damages would be difficult or impossible to determine.

The assessment for damages shall be at a specific rate per day for each day of overrun in contract time, and the rate must be specified in the contract. Any liquidated damages recovered shall be credited to the project account involved unless the FTA permits otherwise. Other yardsticks may be used to assess damages as long as the measurement is clear and unambiguous. Liquidated damages are not to be used as a penalty, or to coerce performance of any contractual provision.

Article XII. Federal Provisions

Section 12.01 Contract Clauses

A number of general contract provisions are required by the Federal Transit Administration (FTA) for FTA funded contracts. These provisions are intended to establish minimum guidelines to which FAX must adhere when purchasing supplies, equipment, services, construction and professional services. The provisions and the types of contracts to which they apply are described in the FTA Best Practice Procurement Manual.

These requirements change from time to time. When drafting a contract, therefore, check the latest materials from FTA.

FTA Federal Provision Procurement Matrix					
Provision	Type of Good/Service				
	Professional Services/A&E	Operations/Management	Rolling Stock Purchase	Construction	Materials & Supplies
SEISMIC SAFETY	A&E for new buildings & additions			New buildings & additions	
TERMINATION	>\$10,000	>\$10,000	>\$10,000	>\$10,000	>\$10,000
LOBBYING RESTRICTIONS	>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000
CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT	>\$150,000	>\$150,000	>\$150,000	>\$150,000	>\$150,000
VIOLATION AND BREACH OF CONTRACT	>\$150,000	>\$150,000	>\$150,000	>\$150,000	>\$150,000
GOVERNMENT-WIDE DEBARMENT AND SUSPENSION	>\$25,000	>\$25,000	>\$25,000	>\$25,000	>\$25,000
ACCESS TO RECORDS AND REPORTS	All	All	All	All	All
CHANGES TO FEDERAL REQUIREMENTS	All	All	All	All	All

NTS					
CIVIL RIGHTS LAWS AND REGULATIONS	All	All	All	All	All
DISADVANTAGED BUSINESS ENTERPRISE (DBE)	All	All	All	All	All
ENERGY CONSERVATION	All	All	All	All	All
INCORPORATION OF FTA TERMS	All	All	All	All	All
NO GOVERNMENT OBLIGATION TO THIRD PARTIES	All	All	All	All	All
PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS	All	All	All	All	All
SAFE OPERATION OF MOTOR VEHICLES	All	All	All	All	All
FLY AMERICA	Foreign air transp./travel	Foreign air transp./travel	Foreign air transp./travel	Foreign air transp./travel	Foreign air transp./travel
PATENT RIGHTS AND RIGHTS IN DATA	R&D				
EMPLOYEE PROTECTIONS		>\$100,000	>\$100,000	>\$2,000	>\$100,000
BUY AMERICA REQUIREMENTS			>\$150,000	>\$150,000	>\$150,000
RECYCLED PRODUCTS		EPA selected items >\$10,000 annually		EPA selected items >\$10,000	EPA selected items >\$10,000 annually

				annually	
CARGO PREFERENCE REQUIREMENTS			Transport by ocean vessel	Transport by ocean vessel	Transport by ocean vessel
BONDING REQUIREMENTS				>\$150,000	
BUS TESTING			All		
CHARTER SERVICE			All		
PRE-AWARD AND POST-DELIVERY AUDITS OF ROLLING STOCK PURCHASES			All		
PUBLIC TRANSPORTATION EMPLOYEE PROTECTIVE ARRANGEMENT		Transit operations			
SCHOOL BUS OPERATIONS			All		
SUBSTANCE ABUSE REQUIREMENTS			Transit operations		

Disputes

Construction Claims shall be resolved utilizing the procedures contained in the Public Contract Code for amounts in excess of \$375,000. For lesser amounts, the City may decide to establish a contract disputes board where members of the three-panel dispute board arrive at a recommendation. Each party selects a member to the board and mutually agrees to the third member. The results of the disputes resolution board may be binding on each party by stipulation.

Other contract disputes are to be resolved by the Contracting Officer within their delegated authority level. Ultimately, the City Council, in consultation with the administrative staff, will resolve administrative disputes that may involve contract actions.

The FTA shall be notified of all claims in accordance with Grant Management Guidelines contained in OMB Circular 5010.

Contractor prequalification

Prequalification lists may be used for recurring requirements for property that take a good deal of time to evaluate to determine if they satisfy the recipient's standards. Purchasing may prequalify people, firms, or products for participation in its procurements provided that:

Lists. FAX ensures that all its prequalification lists used in acquiring property and services are current.

Sources. FAX ensures that all its prequalification lists include enough qualified sources to ensure maximum full and open competition.

Qualification Periods. FAX permits potential bidders or proposers to qualify during the solicitation period (from the issuance of the solicitation to its closing date), as set forth in the Common Grant Rule for governmental recipients. Evaluations for prequalification, however, need not be accelerated or truncated. FTA does not require a recipient to hold a particular solicitation open to accommodate a potential bidder or proposer that submits a person, firm, or product for approval before or during that solicitation. Prequalification as discussed here should not be confused with reviews of technical qualifications that are an essential step in two-step procurement processes.

Rolling stock

In acquiring rolling stock, FAX shall utilize the following:

Method of acquisition

In compliance with 49 U.S.C. § 5325(f), any third party contract award for rolling stock will be based on initial capital costs, or on performance, standardization, life cycle costs, and other factors, or on a competitive procurement process.

Multi- year options

In accordance with 49 U.S.C. § 5325(e)(1), a procurement for rolling stock financed with Federal assistance under 49 U.S.C. chapter 53 may not consist of a multi-year contract with options, exceeding five (5) years after the date of the original contract, to purchase additional rolling stock and replacement parts. This means FAX shall not enter into any contract for rolling stock or replacement parts with a period of performance exceeding five (5) years inclusive of options.

Pre- award and post- delivery requirements

FAX will comply with the requirements of 49 U.S.C. § 5323(m) and FTA regulations, "Pre-Award and Post-Delivery Audits of Rolling Stock Purchases," 49 C.F.R. Part 663 and, when promulgated, any amendments to those regulations.

Bus testing

To the extent applicable, FAX must comply with the requirements of 49 U.S.C. § 5318(e) and FTA regulations, “Bus Testing,” 49 C.F.R. Part 665, and any amendments to those regulations that may be promulgated.

Debarment and suspension

The provisions of 49 CFR Part 29 apply to all Federally Funded FAX contracts and subcontracts at any level expected to equal or exceed \$25,000 as well as any contract or subcontract (at any level) for Federally required auditing services.

FAX, its contractors, and subcontractors (at any level) that enter into covered transactions are required to verify that the entity (as well as its principals and affiliates) they propose to contract or subcontract with is not excluded or disqualified. They do this by (a) Checking the Excluded Parties List System, (b) Collecting a certification from that person, or (c) Adding a clause or condition to the contract or subcontract.

FAX, contractors, and subcontractors who enter into covered transactions also must require the entities they contract with to comply with 49 CFR 29, subpart C and include this requirement in their own subsequent covered transactions (i.e., the requirement flows down to subcontracts at all levels).

Lobbying

Recipients of FTA grants and certain third party contractors and subcontractors are required to certify that Federal dollars are not being used to influence Congressional activities in connection with the award of a grant, loan, or contract and must report any Non-Federal moneys used for these activities. The requirement applies to any contractors or subcontractors receiving more than \$100,000 in an FTA funded contract. Standard certification language will be required in all responses to RFPs and IFBs as will disclosure of lobbying activities on the Standard form LLL “Disclosures Form to Report Lobbying”.

Notification requirement

With respect to any procurement for goods and services (including construction services) having an aggregate value of \$500,000 or more FAX will:

- a) Specify in any announcement of the awarding of the contract for such goods or services the amount of Federal funds that will be used to finance the acquisition; and
- b) Express the amount as a percentage of the total costs of the planned acquisition.

Bonding requirements for construction activities exceeding \$100,000

- a) Construction Activities: Bid guarantee, contract performance, and payment bonding will be required by FAX to the extent deemed adequate by FTA and applicable Federal regulations, and comply with any other bonding requirements FTA may issue;
- b) Other Activities: FAX will comply with any other bonding requirements or restrictions FTA may impose.

Seismic safety

FAX will comply with the requirements of US DOT regulations at 49 C.F.R. Part 41, Executive order No 12699, "Seismic Safety of Federal and Federally- Assisted or Regulated New Building Construction," 42 U.S.C. 7704 note, pursuant to the Earthquake Hazards Reduction Act of 1977, as amended, 42 U.S .C. 7701 et seq., (specifically, 49 C.F.R. 41.117), pertaining to seismic safety requirements for US DOT assisted construction projects, and with any implementing guidelines FTA may use.

Employee protection

FAX will comply as mandated by the FTA Master Agreement Section 24 and with any implementing guidelines FTA may use.

Charter services operations

Neither FAX nor any transit operator performing work in connection with any Project will engage in charter service operations, except as permitted by 49 U.S.C. 5323 (d) and FTA regulations, "Charter Service," 49 C.F.R. Part 604, and any amendments thereto that may be issued. Any charter service agreements required by these regulations is incorporated by reference and made part of the Grant Agreement or Cooperative Agreement.

School transportation operations

Neither FAX nor any transit operator performing work in connection with any Project will engage in school operations for the transportation of students or school personnel exclusively in competition with private school transportation operators, except as permitted by 49 U.S.C. 5323(f) and FTA regulations, "School Bus Operations," 49 C.F.R. Part 605, and any amendments thereto that may be issued. Any school transportation agreement required by these regulations is incorporated by reference and made part of the Grant Agreement or Cooperative Agreement.

Substance and alcohol testing

FAX shall ensure that any entity performing a safety- sensitive function on its behalf, implements and certifies compliance with FTA regulations pertaining to drug and alcohol abuse as required by 49 CFR Parts 653 and 654. Covered contractors shall be required to establish, implement and produce documentation necessary to establish compliance with parts 653 and 654 and to certify compliance under all

reporting requirements of the FTA.

Evaluation of options

An option is a unilateral right to purchase more goods or services at specified terms. When the option includes additional compensation to the contractor, the additional prices must be evaluated as a part of the original contract award or the exercise of the option becomes a sole-source contract under FTA regulations. The costs for sole-source awards must be evaluated utilizing a cost analysis or other applicable market pricing.

Exercise of options

The Contracting Officer 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.

An option may not be exercised unless the Contracting Officer 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.

Contract change orders and modifications

A Contract Change Order is a change within the general scope of the original contract. The Contracting Officer, or designee shall describe the changed terms of the contract, making reference to the existing language in the contract and the changes being made to that language. The Contracting Officer, or designee may use the terms, "was" and "is" to reflect the impact of the change. Schedule changes shall be implemented in accordance with contractual provisions. All contract changes must be supported by adequate consideration.

The Contracting Officer, or designee shall make every attempt to agree on the price of the change order prior to directing the work. This may not be possible in some cases like that of construction contracts where any delay in making the change may have the potential of increasing the overall cost of the project.

In cases where a change is directed prior to agreement on the price the Contracting Officer, or designee shall request cost and pricing data from the contractor in order to reach agreement on the price of the change order. Where negotiations are held with the contractor, a negotiations memorandum shall be documented indicating the initial negotiations positions of the parties, the substantiation for those positions, and migration from the respective positions toward agreement on a price.

The negotiation memorandum shall indicate the degree to which the FAX negotiators relied on additional documentation provided by the contractor. The memorandum shall identify the additional documentation relied upon by FAX. Failure to agree on a price may result in a contractual dispute.

Where the contractor is required to submit cost data to substantiate any price increases or decreases, the Contracting Officer shall perform a Cost Analysis.

Change Orders shall be approved by the authorized FAX approving official and signed by both parties.

Modifications that are not within the general scope of the contract are to be handled as non-competitive proposals and subject to a cost analysis.

Change orders and modifications are to be sequentially numbered in a form approved by FAX Counsel.

Section 12.02 Buy America

The Buy America requirements are located at 49 U.S.C. 5323(j) and (m) and 49 CFR 661 and 663. As now stipulated, any steel, cement, and manufactured products used in projects supported by FTA funds must be produced in the United States unless the Secretary of Transportation determines that one of the following exceptions applies:

- a) Applying this provision would be inconsistent with the public interest;
- b) The materials and products required for a project are not produced in the United States either in sufficient quantity or not of the quality required for the project;
- c) Where an FTA grantee is purchasing buses or other rolling stock (including train control, communication, and traction power equipment), the cost of components produced in the United States is more than 60 percent for FY2016 and FY2017, more than 65% for FY2018 and FY2019, and more than 70% for FY2020 and beyond, of the cost of all the components of the rolling stock or equipment, and final assembly of the stock or equipment has taken place in the United States; or
- d) Including domestically produced material will increase the purchase cost of rolling stock by more 25 percent for the overall project.

(NOTE: In calculating the cost of components under the terms of this provision, labor costs involved in the final assembly are not to be included.)

The provisions of §661.11 of this part do not apply when foreign sourced spare parts for buses and other rolling stock (including train control, communication, and traction power equipment) whose total cost is 10 percent or less of the overall project contract cost are being procured as part of the same contract for the major capital item.

Section 12.03 Certifications

The Contracting Officer should ensure that the pre-award certifications associated with the above mentioned federal requirements are secured prior to

contract award.

Section 12.04 Unreasonable Requirements

The Contracting Officer shall refrain from using unreasonable or excessive qualifications and requirements that may adversely impact small businesses seeking to do business with FAX.

The Contracting Officer shall only state the minimum necessary experience and bonding requirements to protect FAX's interest and comply with both State and FTA requirements.

When it is impractical or uneconomical to make a clear and accurate description of the technical requirements of the property, a "brand name or equal" description may be used as a means to define the performance or other salient characteristics of a specific type of property. The Contracting Officer, however, must state the salient characteristics of the named brand that offerors must provide. When using a "brand name" specification, you need not attempt to reverse-engineer a complicated part to discern precise measurements or specifications in order to describe its salient characteristics. FTA's "Best Practices Procurement Manual," contains guidance on preparation of specifications including examples with specific language.

Section 12.05 Arbitrary Actions

All persons involved in the award, selection, and administration of FAX contracts shall refrain from arbitrary actions, which are defined as actions that are not supported by the business needs of the agency and unnecessarily subjects the affected parties to decisions made without the utilization of objective criteria.

Section 12.06 Local Preferences

The use of geographic preferences on Federal Transit Administration contracts is prohibited. 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 is also prohibited. This requirement 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.

Section 12.07 Bonding

Unnecessary experience and excessive bonding

The Contracting Officer shall only state the minimum necessary experience and bonding requirements to protect the City's interest and comply with both State and FTA requirements.

For construction contracts the follow the requirements of this procedure relating to bid guarantees, performance bonds, and payment bonds. The Contracting Officer shall secure bonding sufficient to reduce the risk of Non- Performance. FTA may accept the bonding policy of FAX as long as these minimum requirements are met:

- a) a bid guarantee from each bidder equal to 10 percent of the bid price;
- b) a performance bond for 100 percent of the contract price; and
- c) a payment bond on the part of the contractor for 100 percent of the contract price for contracts over \$25,000.

Article XIII. Protests

If FTA funds are involved in the purchase, notice shall be provided to the FTA on receipt of a protest. This notice may be provided by Email to the FTA Regional Administrator.

If a protester is not satisfied with the protest decision made by FAX, and Federal funds are involved, the protester may file protest with the Federal Transit Administration. Review by FTA will be limited to:

- a) Violation of Federal law or regulations;
- b) Violation of FAX's protests procedures described herein, or failure by FAX to review protest.

Protests must be filed with FTA (with a concurrent copy to the City) within five (5) days after the City renders a final decision, or five (5) days after the protester knows, or has reason to know, that t failed to render a final decision. After five (5) days, FAX will confirm with FTA that FTA has not received protest on the contract in question.

FAX shall not be responsible for any protests not filed in a timely manner with FTA.

The Transportation Director or Designee shall respond to all Protests involving FTA funded procurement actions.

Article XIV. Contract Close-Out

The Contracting Officer shall insure that all contractual provisions are enforced and all items of work completed before closing out the purchasing action. This includes required audits and warranty provisions if they are included in the contract.

Article XV. Contract Checklists

Section 15.01	Micro Procurement Documentation
Section 15.02	Small and Formal Procurement History
Section 15.03	Small Procurement File Documentation Checklist
Section 15.04	Formal Procurement File Documentation Checklist
Section 15.05	Piggybacking Checklist
Section 15.06	FTA Mandatory Flow Down Clauses

Section 15.01 *Micro Procurement Documentation*

Micro Purchase Form

Fair and Reasonable Price Determination for Purchases Under \$3,500

Check one or more of the following:

- Price was found reasonable on recent purchases
- Price was obtained from a current price list
- Price was obtained from a current catalog
- Sales price from commercial market advertisement
- Similar price in a related industry
- Personal knowledge of item procured
- Regulated utility
- Other (specify below)

Comments:

Copy of backup documentation is attached

Print Name

Date

Signature

Section 15.02 Small and Formal Procurement History

FAX SMALL AND FORMAL PROCUREMENT HISTORY

Date: Completed by: PO/Contract No: Source of Funding:
Method of Procurement Competitive RFP <input type="checkbox"/> Competitive Bid: <input type="checkbox"/> Small Purchase: <input type="checkbox"/> A&E Services <input type="checkbox"/> e Source: <input type="checkbox"/>
Reason for Non-Competition:
Reason for Procurement:
Contract Type: Rationale for contract type:
Reason for Contractor selection or rejection: Lowest responsive, responsible bidder: Evaluation results were:
Basis for Contract Price: Accepted contractor's proposed pricing: Negotiated Price (attached memorandum): Other:
Cost / Price Analysis: The price offered by the supplier was within % of the independent estimate, and variance between the offerors constituted a range of . The competitive range was determined to be from \$ Pricing discrepancies between the offeror was attributed to : Other sources/data used to affirm price reasonableness were:
Summary of Responsibility and Responsiveness Checks Award Date of contract award: Council Approval Date:
Change Orders Identify each and summarize reason for change, dates, cost analysis, time impact , and modification number:

Section 15.03 Small Procurement File Documentation Checklist

FAX Small Procurement Documentation Checklist

Project Name: _____

Contractor Name: _____ Contract Number: _____

Project/Contract Manager Name: _____

Location of Electronic File: _____

INSTRUCTIONS: The Contracting Officer indicates the content of each procurement file on this list, and places this list in front of the file. Papers will be filed in the order indicated by the item number in the appropriate section Supporting papers will be filed under the applicable item Number. Prepare separate list for Change Orders (COs) whenever volume of documentation warrants.

Document/Requirement	Applicability	Applicable to this Procurement/Required? Y/N	Date Added to File	Tab Number	Completed By (Initial)
Pre-Solicitation Requirements					
Statement of Work, Specification, Work Description	All Procurements			1	
Independent Cost Estimate	All Procurements			2	
Sole Source Justification	For Sole Source Procurements			3	
Purchase Requisition	All New Procurements			4	
Noncompetitive, Emergency, Specialized Equipment Approval	As required			5	
Solicitation Requirements					
RFQ / RFIQ / IFB / RFP/ Addenda	All Procurements			6	
Pre-Solicitation Conference Documentation	As Required for IFB/RFP			7	
Supplier Quotations/Bids/Proposals	All Procurements			8	
Bid Opening and Bid Tabulation Records	As required			9	
Evaluation					
Technical Evaluation of Proposals/Bids/Merit Determination for changes	As required			10	
Cost Analysis/Price Analysis/Waiver of Costs Analysis/Market Analysis	All Procurements			11	
Proposal Evaluation Summary	As required			12	
Responsiveness Determination	All Procurements			13	
Responsible Bidder Determination (may consist of):	All Procurements			14	
Cert. of Federal Restriction on Lobbying	Federally Assisted Procurements > 100,000			14	
Debarment/Suspension	All Procurement actions;			14	

check (SAM.gov)	required print out on procurements > \$25,000				
Code of Conduct Certification	All Procurement Actions			14	
Conflict of Interest Analysis & Certification	All Procurement Actions			14	
DBE (for TVMs plan approval printout, for other procurements include clause)	For procurements with contract DBE Goals and Rolling Stock			14	
Drug & Alcohol Testing & Drug Free Workplace Certifications	All safety sensitive procurement actions			14	
Non Collusion Affidavit	All Construction Procurements			15	
Insurance Evaluation	As required			16	
Qualified Products List	As required			17	
Protest Procedures	As required			18	
Copy of Protest Notification to FTA	As Required			19	
Award					
Notice of Intent to Award	All procurements over \$100,000			20	
Performance and Payment Bond	All Construction procurements over \$100,000; other procurements as required			21	
Contract/ Purchase Order (executed copy)	All Procurements			22	
Unauthorized Procurements					
Ratifications	As required			23	
Contract/P.O. Close-Out					
Invoice Approval/Proof of Delivery	As Applicable			24	
Close-out Audit	As required			26	
Close Out Documentation	All Procurements			27	
Procurement History					
Procurement History Documentation	All procurements over \$3,500			28	
Construction – Davis Bacon					
Certified Payroll & Wage Determinations	As Applicable			29	
Miscellaneous					
Other Documentation – Please List				30	

Section 15.04 Formal Procurement File Documentation Checklist

FAX Formal Procurement Documentation Checklist

Project Name: _____

Contractor Name: _____ Contract Number: _____

Project/Contract Manager Name: _____

Location of Electronic File: _____

INSTRUCTIONS: The Contracting Officer indicates the content of each procurement file on this list, and places this list in front of the file. Papers will be filed in the order indicated by the item number in the appropriate section Supporting papers will be filed under the applicable item Number. Prepare separate list for Change Orders (COs) whenever volume of documentation warrants.

Document/Requirement	Applicability	Applicable to this Procurement/Required? Y/N	Date Added to File	Tab Number	Completed By (Initial)
Pre-Solicitation Requirements					
Statement of Work, Specification, Work Description	All Procurements			1	
Independent Cost Estimate	All Procurements			2	
Sole Source Justification	For Sole Source Procurements			3	
Purchase Requisition	All New Procurements			4	
Noncompetitive, Emergency, Specialized Equipment Approval	As required			5	
Advertisement/Publication	All Formal			6	
Solicitation Requirements					
RFQ / RFIQ / IFB / RFP / Addenda	All Procurements			7	
Pre-Solicitation Conference Documentation	As Required for IFB/RFP			8	
Supplier Quotations/Bids/Proposals	All Procurements			9	
Bid Opening and Bid Tabulation Records	All Formal			10	
Evaluation					
Technical Evaluation of Proposals/Bids/Merit Determination for changes	As required			11	
Cost Analysis/Price Analysis/Waiver of Costs Analysis/Market Analysis	All Procurements			12	
Audit/Pre-Award Rolling Stock Audit	Rolling Stock Procurements >\$150,000			13	
Proposal Evaluation Summary	All Formal			14	
Responsiveness Determination	All Procurements			15	
Responsible Bidder Determination (may consist of):	All Procurements			16	

Cert. of Federal Restriction on Lobbying	Federally Assisted Procurements > 100,000			16	
Buy America Certification	As Applicable for Federally assisted rolling stock procurements			16	
Debarment/Suspension check (SAM.gov)	All Procurement actions; required print out on procurements > \$25,000			16	
Code of Conduct Certification	All Procurement Actions			16	
Conflict of Interest Analysis & Certification	All Procurement Actions			16	
DBE (for TVMs plan approval printout, for other procurements include clause)	For procurements with contract DBE Goals and Rolling Stock			16	
Drug & Alcohol Testing & Drug Free Workplace Certifications	All safety sensitive procurement actions			16	
Non Collusion Affidavit	All Construction Procurements			17	
Insurance Evaluation	As required			18	
Qualified Products List	As required			19	
Protest Procedures	All Procurements			20	
Copy of Protest Notification to FTA	As Required			21	
Pre-Negotiation Objectives	All Formal Negotiated Procurements			22	
Summary of Negotiations	All Formal Negotiated Procurements			23	
Award					
Notice of Intent to Award	All Formal			24	
Performance and Payment Bond	All Construction procurements over \$100,000; other procurements as required			25	
Contract/ Purchase Order (executed copy)	All Procurements			26	
Unauthorized Procurements					
Ratifications	As required			27	
Contract/P.O. Close-Out					
Invoice Approval/Proof of Delivery	As Applicable			28	
Post Delivery Audits of Rolling Stock	Rolling Stock Procurements; other procurements as required			29	
Close-out Audit	As required			30	
Close Out Documentation	All Procurements			31	
Procurement History					
Procurement History Documentation	All procurements over \$3,500			32	
Construction – Davis Bacon					
Certified Payroll & Wage Determinations	As Applicable			33	
Miscellaneous					
Other Documentation – Please List				34	
Council Approval				35	

Section 15.05 Piggybacking Checklist

Piggybacking Checklist

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

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

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

Section 15.06 FTA Mandatory Flow Down Clauses

FTA Mandatory Flow Down Clauses 2018*

*Clauses and requirements subject to change, confirm requirements in FTA Master Agreement or the Best Practices Procurement Manual

	Clause Title	Flow down Requirements	In File
1.	Fly America Requirements	The Fly America requirements apply to the transportation of persons or property, by air, between a place in the U.S. and a place outside the U.S., or between places outside the U.S., when the FTA will participate in the costs of such air transportation.	
2.	Veterans Preference	As provided in 49 U.S.C. § 5325(k), to the extent practicable, the Recipient agrees and assures that each of its Subrecipients: (1) Will give a hiring preference to veterans, as defined in 5 U.S.C. § 2108, who have the skills and abilities required to perform construction work required under a third party contract in connection with a Capital Project supported with federal assistance appropriated or made available for 49 U.S.C. chapter 53, and (2) Will not require an employer to give a preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or a former employee.	
3.	Buy America Requirements	Construction Contracts and Acquisition of Goods or Rolling Stock (valued at more than \$150,000).	
4.	Charter Bus and School Bus Requirements	Operational Service Contracts.	
5.	Cargo Preference Requirements	all contracts involving equipment, materials, or commodities which may be transported by ocean vessels	
6.	Seismic Safety Requirements	contracts for the construction of new buildings or additions to existing buildings	
7.	Energy Conservation Requirements	These requirements extend to all third party contractors and their contracts at every tier and subrecipients and their subcontracts at every tier.	
8.	Clean Water Requirements	The Clean Air and Clean Water Act requirements apply to each contract and subcontract exceeding \$150,000	

9.	Bus Testing	acquisition of Rolling Stock/Turnkey	
10.	Safe Operation of Motor Vehicles	The Safe Operation of Motor Vehicles requirements apply to all federally funded third party contracts.	
11.	Lobbying	The lobbying requirements apply to all contracts and subcontracts of \$100,000 or more at any tier under a Federal grant.	
12.	Access to Records and Reports	The record keeping and access requirements extend to all third party contractors and their contracts at every tier and subrecipients and their subcontracts at every tier.	
13.	Federal Changes	applies to all contracts	
14.	Bonding Requirements	These requirements extend to all third party contractors and their contracts at every tier and subrecipients and their subcontracts at every tier that exceed the simplified acquisition threshold.	
15.	Clean Air	The Clean Air and Clean Water Act requirements apply to each contract and subcontract exceeding \$150,000	
16.	Recycled Products	apply to all contracts for items designated by the EPA	
17.	Davis-Bacon and Copeland Anti-Kickback Acts	The Acts apply to any construction contract over \$2,000	
18.	Contract Work Hours and Safety Standards Act	any construction contract or non-construction contract to which the Act applies over \$100,000	
19.	Contract Work Hours and Safety Standards Act (Non-Construction)	For all turnkey, rolling stock, and operational contracts (except transportation services contracts and open market contracts) exceeding \$100,000.	
20.	No Government Obligation to Third Parties	Applicable to all contracts	
21.	Program Fraud and False or Fraudulent Statements and Related Acts	Applicable to all contracts	
22.	Termination	all contracts in excess of \$10,000, with the exception of contracts with nonprofit organizations and institutions of higher learning.	
23.	Government-wide Debarment and Suspension (Non-procurement)	The provisions of Part 29 apply to all grantee contracts and subcontracts at any level expected to equal or exceed \$25,000	

24.	Privacy Act	When a grantee maintains files on drug and alcohol enforcement activities for FTA, and those files are organized so that information could be retrieved by personal identifier, the Privacy Act requirements apply to all contracts.	
25.	Civil Rights Requirements	The Civil Rights requirements flow down to all third party contractors and their contracts at every tier.	
26.	Breaches and Dispute Resolution	All contracts in excess of \$150,000 shall contain provisions or conditions which will allow for administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate	
27.	Patent and Rights in Data	The Patent and Rights in Data requirements apply to all contractors and their contracts at every tier.	
28.	Transit Employee Protective Agreements	apply to each contract for transit operations	
29.	Disadvantaged Business Enterprises (DBE)	The DBE contracting requirements flow down to all third party contractors and their contracts at every tier.	
30.	Incorporation of Federal Transit Administration (FTA) Terms	applies to all contracts	
31.	Drug and Alcohol Testing	Third party contractors who perform <i>safety-sensitive functions</i> must comply with FTA's substance abuse management program under 49 C.F.R. part 655, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations." Under 49 C.F.R. § 655.4, <i>Safety-sensitive function</i> means any of the following duties, when performed by employees of recipients, subrecipients, operators, or contractors: 1. Operating a revenue service vehicle, including when not in revenue service; 2. Operating a nonrevenue service vehicle, when required to be operated by a holder of a Commercial Driver's License; 3. Controlling dispatch or movement of	

		<p>a revenue service vehicle;</p> <p>4. Maintaining (including repairs, overhaul and rebuilding) a revenue service vehicle or equipment used in revenue service. This section does not apply to the following: an employer who receives funding under 49 U.S.C. § 5307 or § 5309, is in an area less than 200,000 in population, and contracts out such services; or an employer who receives funding under 49 U.S.C. § 5311 and contracts out such services;</p> <p>5. Carrying a firearm for security purposes.</p> <p>Additionally, third party contractors providing testing services involving the performance of safety sensitive activities must also comply with 49 C.F.R. part 40, "Procedures for Transportation Workplace Drug and Alcohol Testing Programs."</p>	
32.	Pre-Award and Post-Delivery Audits of Rolling Stock Purchases	Recipients purchasing revenue service rolling stock with FTA funds must comply with the pre-award and post-delivery audit requirements set forth in 49 U.S.C. 5323(m) and supplemented by 49 C.F.R. part 663.	