

Hood River County Transportation District Procurement Policies

ADOPTED 4/2020

1. GENERAL POLICIES

The purpose of these Hood River County Transportation District (HRCTD) Procurement Policies is to establish a broad framework of policies and guidelines to ensure that HRCTD's purchasing and contracting functions promote administrative flexibility and efficiency, while also maintaining a fair equitable process, ensuring adequate internal controls and meeting the general requirements of applicable state and federal regulations.

1.1 ADOPTION

This policy was adopted by the Hood River County Transportation District Board of Directors at their April 10, 2019 meeting. Amendments to the document were made in May based on the results of a State Review and those amendments were adopted at the June 12, 2019 meeting.

1.2 OBJECTIVES

Specific objectives include, but are not limited to the following:

- **Fairness and Objectivity:** Providing a fair, objective, and equitable selection and contracting environment for all individuals and firms seeking to do business or contracting with HRCTD.
- **Ensuring Reasonable Costs:** Promoting competition, and negotiating (where applicable), to ensure that HRCTD receives the most favorable prices and terms in its contracts.
- **Efficiency:** Ensuring that supplies and services are obtained efficiently and effectively.
- **Accountability:** Promoting accountability of contracting actions by HRCTD employees and encouraging employees to protect HRCTD's financial and other interests.
- **Value-Added Procurement:** Facilitating a procurement process that provides service and value to HRCTD in obtaining goods and services.
- **Ethical Standards:** Ensuring that HRCTD's procurement activities are implemented with the highest regard for integrity, avoidance of conflicts of interest, and consistent with applicable ethical standards.
- **Focus on Compliance:** Complying with all applicable federal, state, and local statutes and regulations.

1.3 SCOPE

HRCTD receives funds from federal and state funding sources. HRCTD has developed procurement procedures designed to ensure compliance with applicable laws and regulations without necessarily imposing a higher standard than is necessary to ensure compliance.

Where a requirement in these policies is based only on federal requirements, HRCTD may, on a case-by-case basis for non-federally funded contracts, apply a less stringent standard than outlined in the federal requirements, provided it is otherwise consistent with applicable procurement standards and that all State or other associated contract and legal requirements are met.

1.4 POLICY ADMINISTRATION

The Hood River County Transportation District Board is the governing body of HRCTD. This policy is adopted by the Board for the purposes of establishing the administrative authority of the Executive Director (ED).

The Executive Director is responsible for overall operations of HRCTD including, but not limited to, personnel, finances, facilities, real and personal property, and other assets. The ED shall regularly inform and consult with the Board. At a minimum, this will include consultation on major changes in policies, service levels staffing levels, budget, customer service issues or other issues that directly impact the HRCTD's mission, values or its accountability to the general public. The ED shall be responsible for the day-to-day direction and conduct of business transactions of HRCTD subject to the policies, limitations, and directives in this Policy.

1.5 DELEGATION OF AUTHORITY

The Executive Director is delegated authority by the Board to execute all procurement documents for goods and/or services and public works contracts up to \$100,000. The provisions of the annual adopted budget limits this procurement authority to those items in adopted budgets.

In executing the authority, the Executive Director will be responsible for:

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

1.6 CODE OF CONDUCT

1.6.1 CODE OF ETHICS

In order to avoid any appearance of conflict of interest in purchasing or contract award, HRCTD's employees, officers, board members, or agents may neither solicit nor accept gratuities, favors, or anything of monetary value from present or potential contractors or sub-recipients. Unsolicited gifts of nominal (less than \$25/year) intrinsic value not related to any purchase or contract may be kept.

The District's officers, employees, agents, or Board members shall not use confidential information gained in the course of screening and selecting of a contractor for personal gain.

1.6.2 CONFLICT OF INTEREST

HRCTD's employees, officers, board members, or agents are prohibited from participating in the selection, award, or administration of a contract if a real or apparent conflict of interest would be

involved. Such a conflict would arise when any of the parties set forth below has a financial or other interest in the firm or entity selected for award:

- The employee, officer, board member, committee member or agent;
- Any member of his or her immediate family;
- His or her partner;
- An organization that employs, or is about to employ, any of the above.

In order to ensure each Board Member and Committee Member understand their responsibilities and the associated consequences, each Board or Committee Member will be asked to sign that they have received and understand their obligations when they are first elected to the Board or appointed to a committee. In addition, a reminder of their obligations and associated consequences will be provided annually to all Board or Committee Members at the 1st Board or Committee Meeting of the year.

1.6.3 RESPONSIBILITIES AND CONSEQUENCES

All of those who are covered by this Code of Conduct have an obligation to promptly report any actual or suspected illegal or fraudulent activities or Code violations. All of those covered by this Code should encourage and help those around them to follow the terms of the Code and to act ethically. If there is a concern by an individual covered by the Code of Conduct, they should report such concern to the HRCTD Board Chair, Vice Chair or Executive Director as appropriate. All concerns will be treated with confidentiality and will be investigated fully by the person receiving the complaint or an appropriate designee.

A violation of the Code of Conduct shall result in discipline for each Code violation that fits the nature and facts of the violation.

- An employee violating the Code of Ethics may be subject to discipline up to and including termination.
- A contractor violating any portion of the Code of Conduct may be subject to disbarment from future HRCTD contracts and a violation may be considered a breach of the contractor's contract with HRCTD.
- Board members who violate any portion of the Code of Conduct may be subject to censure and /or such other penalties as provided for by law.

1.7 RESPONSIBLE BIDDERS AND PROPOSERS

Contract awards may be made only to "responsible" contractors possessing the ability, willingness, and integrity to perform successfully under the terms and conditions of the contract (49 U.S.C. Section 5325). The prospective contractor must meet the following criteria as well as any additional criteria

- (a) Integrity and Ethics – Has a satisfactory record of integrity and business ethics, in compliance with 49 U.S.C. Section 5325(j)(2)(A).
- (b) Debarment and Suspension – Is neither debarred nor suspended from Federal programs under DOT regulations, "Nonprocurement Suspension and Debarment," 2 CFR Parts 180 and 1200, or under the FAR at 48 CFR Chapter 1, Part 9.4. HRCTD will check www.SAM.gov on all vendor purchases over the micro purchase level to verify any prospective vendor is not currently disbarred or prohibited from doing business with the federal government.

- (c) Affirmative Action and DBE – Is in compliance with the Common Grant Rules’ affirmative action and FTA’s Disadvantaged Business Enterprise requirements.
- (d) Public Policy – Is in compliance with the public policies of the Federal Government, as required by 49 U.S.C. § Section 5325(j)(2)(B).
- (e) Administrative and Technical Capacity – Has the necessary organization, experience, accounting, and operational controls, and technical skills, or the ability to obtain them, in compliance with 49 U.S.C. Section 5325(j)(2)(D).
- (f) Licensing and Taxes – Is in compliance with applicable licensing and tax laws and regulations.
- (g) Financial Resources – Has, or can obtain, sufficient financial resources to perform the contract, as required by 49 U.S.C. Section 5325(j)(2)(D).
- (h) Production Capability – Has, or can obtain, the necessary production, construction, and technical equipment and facilities.
 - (i) Timeliness – Is able to comply with the required delivery or performance schedule, taking into consideration all existing commercial and governmental business commitments.
 - (j) Performance Record – Is able to provide a:
 - (1) Current Performance – Satisfactory current performance record; and
 - (2) Past Performance – Satisfactory past performance record in view of its records of long-time performance or performance with a predecessor entity, including:
 - i. Sufficient Resources. Key personnel with adequate experience, a parent firm with adequate resources and experience, and key subcontractors with adequate experience and past performance,
 - ii. Adequate Past Experience. Past experience in carrying out similar work with particular attention to management approach, staffing, timeliness, technical success, budgetary controls, and other specialized considerations as described in the recipient’s solicitation, and
 - iii. Any Past Deficiencies Not the Fault of the Bidder or Offeror. A prospective bidder or offeror that is or recently has been seriously deficient in contract performance is presumed to be non-responsible, unless the recipient determines that the circumstances were properly beyond the bidder or offeror’s control, or unless the bidder or offeror has taken appropriate corrective action. Past failure to apply sufficient tenacity, perseverance, and effort to perform acceptably is strong evidence of non-responsibility. Failure to meet the quality requirements of a contract is a significant factor to consider in determining satisfactory performance. ODOT expects HRCTD to consider the number of the bidder or offeror’s contracts involved and the extent of deficient performance in each contract when making this determination.

1.8 CONTRACT ADMINISTRATION

The HRCTD shall maintain a contract administration system to ensure that it and its third-party contractors comply with the terms, conditions, and specifications of contracts or purchase orders and applicable Federal, State and local requirements. All contracts shall include provisions adequate to form a sound and complete agreement.

1.8.1 DOCUMENTING SOLICITATIONS

All solicitations shall include the On-line Procurement Summary Form Checklist which will document the procurement type chosen as well as the actions taken, and responses received.

1.8.2 CONTRACT DOCUMENTS

Contract records shall include, at a minimum:

1. Name of HRCTD Contract Administrator
2. Vendor information
3. Award identification and notification
4. Documents recording compliance with terms, conditions, and specifications of contracts
5. Correspondence

HRCTD must comply with the record retention requirements in accordance with 2 C.F.R. § 200.333.

1.8.3 CONTRACT ADMINISTRATION SYSTEM

HRCTD staff that are designated as Contract Administrator for a Project are responsible for ensuring the contract:

- Provides quality supplies and services that meet or exceed contract specifications,
- Meets project timeline and budget
- Closeout is problem free.

In order to meet these standards, the designated Contract Administrator must:

- Monitor the actual contract and progress;
As appropriate timelines and milestones should be set
- Highlight contract requirements and make sure they are met
Administrator and vendor/contractor should be aware of what is required both throughout the contract and upon completion.
- Maintain regular and open communication with the contractor
Administrator should have regular check ins and should encourage contractor to discuss any issues or concerns upfront.

1.9 PUBLIC RECORDS

All procurement information generated and acquired through any of the procurement processes shall be open to public inspection following the Intent to Award.

Each proposal shall be open to public inspection. Only portions of the proposal that were specifically noted within the ITB or RFP as available for confidential cover (and adequately marked) will be withheld in accordance with State and Federal Freedom of Information Act laws.

1.10 COMMITMENT TO BIDDERS/PROPOSERS

HRCTD will strive to ensure the procurement process meets standards for:

1. **Competition:** As a government agency and stewards of the public's money, HRCTD acknowledges the importance of competition to ensure it receives the best quality of goods and services at the most competitive prices. HRCTD also acknowledges the importance of spreading public contracting opportunities to the larger business community.
2. **Efficiency:** HRCTD will look for procurement elements (e.g. contract terms, simplified procurement processes, low price bid, etc.) that offer efficiencies which still meet overall procurement requirements but also provide benefits for both the business community and HRCTD.
3. **Fairness:** In order to ensure fairness and meet the expectations of the business community, the length of any HRCTD contract shall be limited to the time specified in the advertised solicitation. HRCTD shall generally not extend a contract beyond the advertised period, except for good and sufficient reasons as approved by the Executive Director

1.11 CONTRACT DURATION

As part of our commitment to fairness, the following shall govern the length of HRCTD contracts and any contract extensions:

1. Generally, a supply or service contract shall be established for one to three years, with options to extend the contract for up to a total of five years. The decision on the length of a contract shall be determined on a case-by-case basis, provided that the Executive Director approves the contract length.
2. Solicitation documents and contracts shall include language about the anticipated length of a particular procurement.
3. Contracts shall generally include provisions outlining the process or formula to be followed in negotiating the price for an extension of a contract's original term.

1.12 DISADVANTAGED BUSINESS ENTERPRISES (DBE)

HRCTD invites and encourages disadvantaged business enterprises (DBE) to participate in the procurement process for all purchases. DBE's include any emerging, small, minority, veteran and woman-owned businesses. Oregon DBE's may formally register through the Oregon Office of Minority, Women and Emerging Business (OMWEB).

HRCTD will take all necessary affirmative steps to assure that DBE's are contracted with when possible. Affirmative steps shall include:

1. Placing qualified DBE's on the solicitation lists;
2. Ensuring that DBE's are solicited whenever they are potential sources.
3. Dividing total requirements (within the limits of this policy), when economically feasible, into smaller tasks or quantities to permit maximum DBE participation.
4. Establishing delivery schedules, when requirements permit, that encourage DBE participation;
5. Using the services and assistance of the OMWEB, Small Business Administration (SBA) and the Minority Business Development Agency of the Department of Commerce; and
6. Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in items 1-5 above. In construction contracts, if required by federal grant provisions, the HRCTD may require the prime contractor to attain the minimum percentage of Disadvantaged Business

Enterprises subcontractor participation as stated in the bid proposal. The contractor shall submit with each monthly invoice a billing specification which clearly outlines the dollar amount of DBE participation for that billing period.

2 REASONABLE COSTS

One of the key elements in the procurement process is ensuring that HRCTD pays a reasonable cost for goods and services. Prices which are unreasonably low can be detrimental to HRCTD as they can indicate a mistake or misunderstanding regarding the work to be performed. Prices which are unreasonable high means HRCTD is paying more than it needs and can indicate a lack of competition or flexibility in the procurement process.

2.1 PRICE & COST ANALYSIS

The ED or designee shall exercise their best professional judgment to evaluate the reasonableness of a proposed expenditure. An independent cost estimate shall be made prior to solicitations, or prior to starting contract negotiations after making a selection based on a Request for Qualifications. The estimate will be used to evaluate reasonableness or unreasonableness of price and/or the estimated costs to perform the contract.

Price Analysis: A written review and evaluation of competitive prices to determine whether the proposed price is reasonable when compared with prices provided by others in the market.

Cost Analysis: A written review and evaluation of the proposed cost elements (labor, materials, overhead) and profit of a contract, purchase order, or change order to ensure the price is reasonable. It is usually used for professional consulting and Architectural & Engineering services contracts. A Cost Analysis is necessary whenever a Price Analysis cannot be performed.

HRCTD must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold of \$250,000 including contract modifications.

2.1.1 EXTENT OF ANALYSIS

The requirements for ensuring reasonable costs in contracting apply to most HRCTD procurement activities (goods, supplies, construction, consulting, services, and contract changes). The method and degree of analysis depends upon the facts of a particular procurement situation, including the size, nature, and complexity of the contract or change order. The estimate can range from a simple budgetary estimate to a complex estimate based on inspection of the product itself and review of such items as drawings, specifications, and prior data.

2.1.2 WHEN NOT REQUIRED

An independent estimate of costs (Price Analysis or Cost Analysis) is required for all “open-market” procurements.

The ED or designee are expected to exercise prudent and conservative judgment in evaluating the reasonableness of all proposed expenditures. The independent cost analysis will usually be prepared by HRCTD staff, however, an independent party may assist in evaluation of reasonableness of costs.

2.4 PRICE ANALYSIS PURPOSE

The purpose of a Price Analysis is to ensure HRCTD pays a reasonable price, based on market prices.

Accepted forms of Price Analysis techniques are:

1. Comparison of catalog or market prices (internet search)
2. Comparison to prior purchases
3. Comparing vendor quotes
4. Adequate price competition (at least 2 offerors respond satisfactorily to solicitation)
5. Pricing set by law or regulation (ex: utilities)
6. Comparing proposed prices with independently developed cost estimates.
7. Value Analysis. This may include consideration of life cycle costs such as productivity gains, services/training provided, or efficiency gains.

2.5 COST ANALYSIS PURPOSE

The purpose of the Cost Analysis is to ensure that the proposed price is reasonable. It shall include an analysis of a proposal's separate cost elements and profit compared to what the cost of the contract should be, (assuming reasonable economy and efficiency).

2.5.1. WHEN REQUIRED

The following situations require a Cost Analysis:

1. Price Analysis will not provide sufficient information to determine the reasonableness of the contract cost
2. Sole source, including emergency, selections (unless waived by the Executive Director)
3. Single response to a solicitation
4. Contracts based on a Request for Qualifications (A&E)
5. Change orders or other modifications that change the contract amount.
6. Contracts based on Formal (ITB, RFP) or Informal Solicitations where price is one of the evaluation criteria.

2.5.1 LEVEL OF SPECIFICITY

The ED (or contractor/consultant) with the relevant experience and knowledge should conduct the Cost Analysis. The analysis must have a level of specificity and independence appropriate to the contract or Change Order under review that describes what was analyzed. For any contract or Change Order subject to a Cost Analysis, HRCTD shall require that the Contractor/Consultant submit a cost breakdown of their price for use in evaluating reasonableness of price.

2.6 CONTRACT COST CONSIDERATIONS

2.6.1 TIME AND MATERIALS CONTRACTS: A Time and Materials contract may be used **only** after a determination that no other contract payment type is suitable. This is generally when the extent of work is unknown when the work is solicited. If HRCTD chooses a time and materials contract, it must set a firm ceiling price.

2.6.2 NEGOTIATION OF PROFIT: Profit shall be negotiated separately in all cases where there is no price competition. To establish a fair and reasonable profit, consideration will be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment,

the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

2.6.3 PERCENTAGE OF COST METHOD PROHIBITED: “The ‘cost plus a percentage of cost’ and ‘percentage of construction cost’ methods of contracting shall not be used” (CFR 48.1.C.102c).

3. METHODS OF PROCUREMENT

This Section deals primarily with the purchase of goods, services, supplies, equipment, materials, and ancillary services (ex: installation, maintenance packages, etc.), and is frequently referred to as “goods and services.” Typically, there are three “thresholds for procurement in this area. Those under \$3000 are called micro-purchases; those from \$3000-100,000 – which are called “small purchases – which are traditionally handled through an informal procurement process; and those over \$100,000 which are formal procurements. Formal procurements come in two standard forms the Invitation for Bid (IFB) and the Request for Proposal (RFQ). The specifics of these procurement types are outlined in detail below.

All HRCTD Purchases (micro; small or formal) must include a procurement summary check list. The checklist can be found in the appendix of this document

3.1 MICRO-PURCHASES

Micro purchase procurements are for the purchases of goods and services under \$10,000, as defined by the Office of Management and Budget

Employees are expected to use their best professional judgment when making micro purchases and maximize HRCTD dollars for value. Although competition is not required, it is expected that the best possible price be obtained and that no favoritism be shown in selecting suppliers.

Micro-purchases:

- a) Shall be distributed equitably among qualified suppliers, service providers, consultants, and contractors.
- b) Shall not be divided or reduced merely to comply with the micro-purchase limit.
- c) Are exempt from FTA’s Buy America requirements.
- d) Pricing shall be fair and reasonable.

All projects that are subject to Prevailing Wage rules (FTA C4220.1.f) as well as bidding and contract requirements may not be purchased under this section; see Section 11.5.

3.2 SMALL PURCHASES

Small purchases are procurements costing over \$10,000 but at \$250,000 or less. This means that they are not subject to formal advertising as part of the selection process. While these procurements may be conducted under less formal selection procedures they do require that the process include comparing competitive prices from more than one vendor.

In small purchases the procurement documents should provide

- a) Clear and accurate description of the technical requirements of the item(s) to be purchased in a way that does not unduly restrict competition. Ideally this should be done without specifying a brand name. If a brand name is the best way to accurately describe the item that is to be purchased– the document should include a note indicating that those products which are comparable to the specified brand will also be considered.
- b) Price Analysis performed, generally by comparing prices from vendors. If a Price Analysis cannot be performed, an Independent Cost Estimate must be developed for bids or quotations.
- c) Criteria that will guide selection. In most all cases price should be the primary (and in many cases only) evaluation criteria to consider. However, if other factors are to be considered in the

assessment, they should be well documented in purchase requisition forms along with the weighting of the criteria.

3.2.1 INFORMAL SOLICITATION

An informal solicitation may be used for buying goods and supplies that will cost \$100,000 or less. A contract, single or multi-year, based on an informal solicitation shall not exceed \$100,000 (including change orders, transportation, and sales tax).

In an informal solicitation over \$3000, the process should include the solicitation and price comparison of at least three vendors to ensure adequate and sufficient competition. Under special circumstances and for good and sufficient reasons, the Executive Director may approve solicitation of just two vendors.

Price quotations may be received orally, by fax, e-mail, internet search, or other means. The decision about whether to request and receive price quotations orally or in writing shall be made by Executive Director based on the complexity of the solicitation

Simple solicitations may be handled orally or through an internet search, while more complex ones should be handled in writing. Solicitations and responses for goods which must be manufactured or assembled specifically for HRCTD, or for which installation is a component, should generally be in writing. As should all solicitations that are to select a vendor on a best value determination rather than low bid or solicitations for goods and supplies valued over \$25,000 or more.

Purchases over \$25,000 should also allow sufficient time for vendors to prepare and submit their prices.

3.2.2 EXTENDING THE CONTRACT

Extending the contract of vendor who was selected through an informal bid is allowed if total amount of the contract (contract & extension) does not exceed the \$100,000 threshold. If goods and supplies in excess of \$100,000 are required under a contract based on an informal solicitation, a competitive selection process should be initiated immediately.

In cases, where a termination would adversely affect HRCTD business operations, the Executive Director may reasonably extend the existing contract. However, the Executive Director should notify the Board and should begin a new procurement process as soon as possible.

3.3 FORMAL PROCUREMENTS

Formal procurement MUST be conducted for purchases over \$100,000 but may be done for procurements under this threshold when deemed appropriate by the Executive Director.

(PLEASE NOTE, ONCE ODOT PUBLIC TRANSIT DIVISION HAS UPDATED THEIR PROCUREMENT STANDARDS TO MEET NEW FEDERAL OMB REQUIREMENTS – THIS DOCUMENT WILL UPDATE FORMAL PROCUREMENTS TO SOLICITATIONS OVER \$250,000)

3.3.1 INVITATION FOR BID

A formal Invitation to Bid (IFB) is a formally advertised and competitive selection process used for obtaining goods and services. Typically, an IFB is used for those solicitations that will cost more than

\$100,000 (41 USC Section 403(11)), where award is made based on the lowest price submitted by a responsible bidder with a responsive bid. However, a formal ITB can also be used for solicitations that will be under a \$100,000 if the Executive Director sees value in a more formalized process.

When to Use IFBs: Generally, vendors providing goods, supplies, equipment, materials, and some services should be selected based on competitive bids. If the following criteria are met, an ITB should be utilized:

- a.) The amount of the procurement, including any potential change orders, transportation, and sales tax will cost more than \$100,000.
- b.) A complete, adequate, and realistic specification or purchase description is available.
- c.) Two or more responsible bidders are willing and able to compete effectively for the work.
- d.) The project lends itself to a firm fixed price contract, and the selection of the successful bidder can be made principally on the basis of price.

Price is the Evaluation Criteria: In an ITB price shall be the only evaluation criterion used, provided the bid is submitted by a responsible bidder with a responsive bid. An IFB is **NOT** appropriate when the project does not lend itself to a firm-fixed price contract approach.

In an ITB the procurement documents should include a:

- Detailed, clear, and accurate description of the product and/or scope of work presented in a way that does not unduly restrict competition. Ideally this should be done without specifying a brand name. If a brand name is the best way to accurately describe the item that is to be purchased– the document should include a note indicating that those products which are comparable to the specified brand will also be considered.
- Statement indicating price is the only selection criteria.
- List of items to be submitted with the bid.
- Outline procurement process, including any preproposal meetings and dates
- Sample Contract including where applicable, contract language required FTA Master Agreement including but not limited to these items:
 - Contract type
 - Cost rates and restrictions
 - Civil rights
 - Environmental protection
 - Audit requirements
 - Breach of Contract
 - Termination of Contract
 - Claims and litigation
 - Settlements and Court and Arbitration awards (C4220.1.f VII(5))
 - EEO Requirements: Executive Order 11246, entitled 'Equal Employment Opportunity,' as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR 60)
 - Copeland "Anti-Kickback" Act: 18 U.S.C. 874 as supplemented in Department of Labor regulations 29 CFR 3. • Davis-Bacon Act: 40 U.C. 276a as supplemented by Department of Labor regulations 29 CFR 5
 - Contract Work Hours and Safety Standards Act (40 USC. 327-330) as supplemented by Department of Labor regulations (29 CFR 5).
 - Restrictions on Lobbying: Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR 20.

- Debarment and Suspension: Parties listed on GSA's debarment list are excluded from participation in federal contracts.
- Third party contracts shall contain provisions extending FTA and State requirements to subcontractors.
- Buy America.

In addition, the IFB must:

- Be publicly advertised in the local paper, on the HRCTD website and in other media as appropriate.
- Be Available for review by vendors for a sufficient length of time to prepare and submit bids.
 - At a minimum, it is recommended that HRCTD staff provide 21 days however the ED or designee may take into consideration the work to be performed and the complexity of the project or procurement.

3.3.2 REQUEST FOR PROPOSAL

A Request for Proposals (RFP) is a formally advertised and competitive selection process used to obtain consultant services more than \$100,000, and where the evaluation and selection of a Consultant cannot be based on price alone but is based on established criteria that include price and other factors. However, an RFP can also be used for solicitations that will be under a \$100,000 if the Executive Director sees value in a more formalized process.

When to Use an RFP: Generally, consultant or vendors providing a unique or specialized service or products/projects which require more flexibility (software, technology, and rolling stock) should use an RFP process. Typically, if the following criteria are met, an RFP should be utilized:

- a.) The amount of the procurement, including any potential change orders, transportation, and sales tax will cost more than \$100,000.
- b.) A scope of work rather than an adequate, and realistic specification or purchase description is available.
- c.) Two or more responsible bidders are willing and able to compete effectively for the work.
- d.) Purchase criteria involves multiple factors with price as only one criteria.

Multiple Criteria make up the Evaluation: Price is just one of multiple factors that are used to consider selection. An RFP is **NOT** appropriate when the project lends itself to a firm-fixed price contract approach.

In an RFP, the procurement documents should include a:

- Detailed, consistent and clear outline of the scope of work and expected roles
- Statement indicating what evaluation criteria will be considered and how those criteria will be weighted.
- List of items to be submitted with the bid
- Overview of procurement timeline including any preproposal meetings
- Sample Contract including where applicable, contract language required FTA Master Agreement including but not limited to these items:
 - Contract type
 - Cost rates and restrictions
 - Civil rights,
 - Environmental protection,

- Audit requirements
- Breach of Contract
- Termination of Contract
- Claims and litigation
- Settlements and Court and Arbitration awards (C4220.1.f VII(5))
- EEO Requirements: Executive Order 11246, entitled 'Equal Employment Opportunity,' as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR 60)
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- Restrictions on Lobbying: Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR 20.
- Debarment and Suspension: Parties listed on GSA's debarment list are excluded from participation in federal contracts.
- Third party contracts shall contain provisions extending FTA and State requirements to subcontractors.

In addition, the RFP must:

- Be publicly advertised in the local paper, on the website and in other media as appropriate.
- Be available for review by vendors for a sufficient length of time to prepare and submit bids.
 - At a minimum, we recommend 21 days however staff should take into consideration the work to be performed and the complexity of the project or procurement.

4. SPECIAL PROCUREMENTS

4.1 ARCHITECTURAL AND ENGINEERING (A&E) PROCUREMENTS

Architectural & Engineering (A & E) Procurements are a subset of the formal RFP procurement process. The primary distinction between the two is that HRCTD may not use cost as an evaluation criterion when selecting a firm for performing A & E work.

Consistent with the requirements of RCW 39.80 and the Brooks Act (40 USC. Sections 1101-1104), the evaluation criteria must be limited to factors that relate to a Consultant's qualifications and competence to perform the desired work. HRCTD must select the most highly qualified A & E Consultant to provide the services.

The following services are included in A & E Procurements:

Professional Services: Program management, construction management, feasibility studies, preliminary engineering, design, architectural, engineering, surveying, mapping and related services (CFR 49 Sec 5325(b)). Landscape architectural services (RCW 39.80.020).

Related to Real Property: Professional services of an architectural or engineering nature performed by contract that are associated with research, planning, development, design, construction, alteration, or repair of real property. The nature of the work to be performed and its relationship to construction, not the nature of the prospective contractor, determine whether qualifications-based procurement procedures may be used. (40 U.S.C. 1102).

Typically Performed By: Other professional services of an architectural or engineering nature, or incidental services, which members of the architectural and engineering professionals (and individuals in their employ) may logically or justifiably perform, including studies, investigations, surveying and mapping, tests, evaluations, consultations, comprehensive planning, program management, conceptual design, plans and specifications, value engineering, construction phase services, soils engineering, drawing reviews, preparation of operation and maintenance manuals, and other related services (40 U.S.C. 1102).

4.1.1. DISTINGUISHING BETWEEN A & E WORK AND NON-A & E WORK

If State law requires that the work in question be performed by someone licensed or registered in one of the professions cited above, then the work should be considered as A & E work and price can not be used as an evaluation criterion.

4.1.2 HOW IS THE PROCESS DIFFERENT?

While generally the same process as the informal, ITB and RFP processes described above there are five significant differences:

1. All solicitations (formal and informal) must be in writing.
2. Price or cost may not be used as an evaluation criterion.
3. All evaluation criteria and their weight shall be included in the informal solicitation.
4. An evaluation panel of three or more appointed by the Executive Director shall evaluate submittals only on established criteria.
5. Once the proposals have been ranked based on the evaluation criteria, HRCTD shall negotiate a contract with the top ranked (most qualified) firm for A&E services at a price which HRCTD determines is fair and reasonable. In making its determination, HRCTD shall take into account

the estimated value of the services to be rendered (from the detailed price analysis) as well as the scope, complexity, and professional nature of the project. If those negotiations are unsuccessful, HRCTD may negotiate with the next highest ranked firm.

4.2 DESIGN-BID-BUILD AND DESIGN-BUILD OPTIONS

4.2.1 DESIGN-BID-BUILD

The Design Bid- Build is the most traditional process in the U.S. construction industry, where the owner contracts separately with a designer and a contractor. The design firm is hired to deliver 100 percent complete design documents. The owner or agent then solicits fixed price bids from contractors to perform the work. Designers and contractors bear no contractual obligation to one another and the owner bears all risk associated with the completeness of the design documents.

4.2.2 DESIGN-BUILD

Under the Design build method, an owner typically hires a single entity, the design/builder, to perform both design and construction under a single contract. Portions or all of the design and construction may be performed by the entity or subcontracted to other companies. DB is characterized by high levels of collaboration between the design and construction disciplines, input from multiple trades into the design, and a single entity bearing project risk. Typically, the general contractor is responsible contractually for this delivery method.

It is important to note, that in a Design-Build option the follow procurement rules must be considered:

- a) When construction costs are estimated to be more than A&E costs, qualifications-based procurement procedures may not be used to acquire A&E services, unless the FTA determines otherwise in writing or if required by State law.
- b) When A&E services are estimated to be more than construction costs, qualifications-based procurement procedures based on the Brooks Act and described above shall be used.

In determining which project delivery method and contractual arrangement to employ, HRCTD should carefully analyze internal staff's:

- Capacity and technical capability to closely manage the process
- Individual project drivers
- Sensitivity to cost and schedule escalations
- Degree of comfort with bearing project risk

4.3 TWO STEP PROCUREMENT PROCESSES

Two-Step Procurement Procedures (41 U.S.C. Section 253.m) may be used in competitively negotiated procurements, such as rolling stock or technology or professional services provided the opportunity for full and open competition is retained, consistent with State and FTA requirements.

Step 1: Review of Technical Qualifications and Approach

The first step is a review of the prospective offerors' technical approach to HRCTD's request and technical qualifications to carry out that approach. The competitive range may be narrowed to prospective offerors that demonstrate a technically satisfactory approach and have satisfactory qualifications.

Step 2: Review of Bids and Proposals Submitted by Qualified Prospective Contractors

The second step consists of soliciting and reviewing complete proposals, including price, submitted by each prospective offeror determined to be qualified. Proposals should be solicited from at least three qualified prospective offerors, absent exceptional circumstances. Unlike qualifications-based procurement procedures required for A&E services (Section 4.1), and other contracts covered by CFR 49 Section 5325(b) discussed in Section 1.3 (ITBs), proposal prices of all offerors/proposers in the competitive range are to be considered along with evaluation factors relating to qualifications and technical factors.

In the interests of efficiency, HRCTD may elect to obtain submittals of both steps with a single solicitation.

4.4 CONTRACT OR COOPERATIVE PURCHASING AGREEMENTS

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

4.4.1 PIGGYBACK PROCUREMENTS

Piggybacking is a form of intergovernmental cooperative purchasing in which an entity will be extended the same pricing and terms of a contract entered into by another entity - thereby gaining economies of scale that they would otherwise not receive if they competed on their own.

While generally encouraged, specific requirements must be in place in order for HRCTD to enter into a piggyback agreement with another agency. 1) They must ensure that the original contract with the vendor contains an express assignability clause that provides for the quantities to be ordered by HRCTD 2) that these quantities were included in the original bid and, 3) that these quantities were evaluated as part of the contract award decision. Additional requirements for "piggybacking" are outlined in the Appendix C: Piggyback Procurement Checklist.

Note that "piggybacking" is not permissible when the action would call for an increase in quantities that were not originally bid on and not originally evaluated as part of the contract award. See Tag-ons under Section 5. Prohibited Procurement Practices below.

4.5 AVAILABILITY FROM ONLY A SINGLE SOURCE

In certain instances, and situations, the procurement of goods and services without adequate competition is permissible:

1. **Sole Source Procurement:** The service or item is available only from a single source, based on a documented good faith review of available sources.
2. **Emergency Procurement:** An emergency is not reasonably foreseeable. In an emergency procurement there must exist a risk of loss or a threat to the public health, welfare, or safety.

Generally an emergency procurement situation would endanger property or would otherwise cause serious injury to HRCTD or its customers and would therefore require a contracting action be implemented immediately. This may occur through flood, earthquake, epidemic, fire, riot, equipment failure, or other event. In this case, the need outweighs the requirement for a competitive bidding process and the Board, once formally declaring an emergency situation may ask the ED to secure a contractor immediately.

3. **Inadequate Competition:** After solicitation from a number of sources, only a single response is received, or competition is determined to be inadequate.

4.5.1 SOLE SOURCE JUSTIFICATION

Each sole source procurement is required to be justified. This means documenting the reasons why competitive selection requirements should be waived and documenting that the price is reasonable with a detailed Price or Cost Analysis (Section 2). Sole source justification forms can be found in the Appendix of this document.

4.6 COMPETITIVE EXCEPTIONS (DIRECT PAYMENTS)

Competitive Exceptions, or Direct Payments, are transactions which, by their nature, are impractical or impossible to competitively bid because of market or other conditions and are thus exempt from competitive bidding requirements. These transactions are not “open market” procurements and thus do not have to be justified as a Sole Source Procurements (Section 4.4) but may be obtained directly by the Executive Director. Depending on the item, there may or may not be a contract or Purchase Order outlining the terms and conditions.

The following is the existing list of Direct Payment Purchases that do not require competitive processes: (Direct Payment List).

1. Utility bills (Water, Sewer, Electricity, Gas, other regulated utilities)
2. Postage and other purchases from the U.S. Postal Service
3. Licenses, permits, and fees from governmental or regulatory entities
4. Fees paid to governmental cooperative purchasing organizations.
5. Charges for official HRCTD business on personal credit card while on HRCTD travel status.
6. Legal services such as arbitration fees, litigation fees, witness fees, court costs, and related expenses (but not the cost of outside counsel, investigations, or related matters), when endorsed by Board of Directors.
7. Legal settlements of disputed matters, and judgment claims against HRCTD (for use only with endorsement by Board of Directors).
8. Payments for existing annual maintenance, service, or support agreements for computer, telecommunication-related services, and existing software license agreements.
9. Travel expenses for HRCTD employees, program participants, volunteers, or the Board Members necessary to conduct HRCTD business.
10. Training registration fees and tuition for pre-established, non-HRCTD specific, off-site classes, seminars, workshops, etc. for HRCTD employees, program participants, volunteers, and Board Members
11. Testing and travel expenses of employment applicants (including moving expenses for eligible personnel). This includes travel expenses of certain out-of-state job applicants. Travel expenses of job applicants must be approved by the ED or the Board of Directors.

12. Conference and convention expenses and fees for HRCTD employees, program participants, volunteers, or members of the Board of Directors conducting HRCTD business.
13. Advertisements for employment opportunities, purchasing and contracting solicitations, sale of surplus items, public announcements and outreach, etc. (all media). This exception does not include printing, design, or graphics services.
14. Freight bills, express shipping, common carriers, and delivery services.
15. Honoraria and stipends.
16. Insurance deductible and/or retained losses
17. Taxi, public transportation, and toll fares; mileage and incidental parking expenses for employees on agency business.
18. Publications, books, and subscriptions.
19. Mailing lists.
20. Professional association dues, fees, licenses, and certifications.
21. Petty cash purchases and reimbursements less than \$200.
22. Transactions not subject to these Procurement Policies as noted in Section 2: Scope.

4.6.1 ADDING TO THE DIRECT PAYMENT LIST

Additional items may be added to the list without seeking approval of the Board of Directors, if the changes are consistent with applicable statutory and regulatory requirements and the current list is made readily available to HRCTD employees and the Board. In the event of ambiguity or uncertainty as to whether an item is or is not subject to competition and whether it should be included on the Direct Payments List, the County Counsel shall review the matter and make the final decision.

4.7 PERSONAL SERVICES CONTRACT (ONLY AVAILABLE FOR LOCAL PROCUREMENTS – NO FEDERAL FUNDS).

Personal Services are those that require specialized skill, knowledge and resources in the application of technical or scientific expertise or in the exercise of professional, artistic or management discretion or judgment. They are distinct from the architectural, engineering and design services outlined above and should not be confused with professional services. ***A personal services contract is only available if no federal funds are to be used.***

1. Qualifications and performance history, expertise and creativity, and the ability to exercise sound professional judgment are typically the primary considerations when selecting a personal services contractor, with price being secondary.
2. Personal services contracts include, but are not limited to, the following classes of contracts:
 - a. Contracts for services performed in a professional capacity, including but not limited to, services of an accountant, attorney, auditor, court reporter, information technology consultant, physician or broadcaster;
 - b. Contracts for professional or expert witnesses or consultants to provide services or testimony relating to existing or potential litigation or legal matters in which the city is or may become interested;
 - c. Contracts for services as an artist in the performing or fine arts, including any person identified as a photographer, film maker, actor, director, painter, weaver or sculptor;
 - d. Contracts for services that are specialized, creative or research-oriented; and/or
 - e. Contracts for services as a consultant.

While in most situations personal services contracts should be conducted through normal procurement procedures if the services meet specific criteria **and no federal funds are being used**, the Executive Director may enter into a direct negotiation contract for the services.

4.7.1 DIRECT NEGOTIATIONS

Personal services may be procured through direct negotiations if:

1. The contract price does not exceed \$75,000 and the work is within a budgetary appropriation or approved by the Board; or
2. The confidential personal services, including special counsel, or professional or expert witnesses or consultants, are necessary to assist with pending or threatened litigation or other legal matters in which the Board may have an interest; or
3. The nature of the personal service is not project-driven but requires an ongoing, long-term relationship of knowledge and trust.

4.7.2 AMENDMENTS

Personal services contracts procured by direct negotiation pursuant to this section may be amended, provided the amendment is within the scope of the original contract and the cumulative amount of the amendments does not increase the total contract price by more than twenty-five percent (25%) over the original contract price; or the amendment is necessary to complete the work being performed and it would be unreasonable or impracticable to seek another provider within the time frames needed to complete the work.

4.7.3 PUBLIC NOTICE.

No public notice of personal services contracts procured by direct negotiations is required.

4.8 BOARD DESIGNATED SPECIAL PROCUREMENT

In its capacity as contract review board the HRCTD Board for the HRCTD, the Board, upon its own initiative or upon request of the Executive Director, may create special selection, evaluation and award procedures for, or may exempt from competition, the award of a specific contract or class of contracts as provided in this section.

4.8.1 BASIS FOR APPROVAL.

The approval of a special solicitation method or exemption from competition must be based upon a record before the Board that contains the following

1. The nature of the contract or class of contracts for which the special solicitation or exemption is requested;
2. The estimated contract price or cost of the project, if relevant;
3. Findings to support the substantial cost savings, enhancement in quality or performance, or other public benefit anticipated by the proposed selection method or exemption from competitive solicitation;
4. Findings to support the reason that approval of the request would be unlikely to encourage favoritism or diminish competition for the public contract or class of public contracts, or would otherwise substantially promote the public interest in a manner that could not practicably be

realized by complying with the solicitation requirements that would otherwise be applicable under these regulations;

5. A description of the proposed alternative contracting methods to be employed; and
6. The estimated date by which it would be necessary to let the contract(s).
7. Whether federal funds would be used to pay the contract (special procurements are not allowed with federal funds)

In making a determination regarding a special selection method, the Board may consider the type, cost, amount of the contract or class of contracts, number of persons available to make offers, and such other factors as it may deem appropriate.

4.8.2. HEARING

The Board shall approve the special solicitation or exemption after a public hearing before the Board.

- a. At the public hearing, the Board shall offer an opportunity for any interested party to appear and present comment.
- b. The Board shall consider the findings and may approve the exemption as proposed or as modified by the Board after providing an opportunity for public comment.

5. PROHIBITED PROCUREMENT PRACTICES

Procurement practices that restrict competition are prohibited (49 USC Section 5325(h)). Examples of such practices, include the following:

1. **Unreasonable Requirements:** Placing unreasonable requirements on firms in order for them to qualify to do business.
2. **Improper Prequalification.** Using prequalification procedures that conflict with prequalification standards described in the FTA Circular 4220.1.f VI-1c.
3. **Retainer Contracts.** A noncompetitive award to any person or firm on a retainer contract if that award is not for the property or services specified for delivery under the retainer contract.
4. **Experience and Bonding.** Requiring unnecessary experience and excessive bonding.
5. **Brand Name Specificity.** Specifying only a brand name product instead of allowing an equal product to be offered and describing the performance of other relevant requirements of the procurement.
6. **Tag-Ons.** Tag-ons are not permitted (Tag-ons are defined by FTA as adding quantities on to the contracted quantities (base and option) as originally advertised, competed, and awarded, whether for the use of the buyer or for others and then treating the add-on portion as though it met the requirement of the original competition)
7. **Conflict of Interest.** An organizational conflict of interest occurs when any of the following circumstances arise:
 - **Lack of Impartiality or Impaired Objectivity.** When the contractor is unable, or potentially unable, to provide impartial and objective assistance or advice to the recipient due to other activities, relationships, contracts, or circumstances.
 - **Unequal Access to Information.** The contractor has an unfair competitive advantage through obtaining access to nonpublic information during the performance of an earlier contract.
 - **Biased Ground Rules.** During the conduct of an earlier procurement, the contractor has established the ground rules for a future procurement by developing specifications, evaluation factors, or similar documents.
 - **Restraint of Trade.** Supporting or acquiescing in noncompetitive pricing practices between firms or between affiliated companies. Questionable practices would include, but not be limited to:
 - submissions of identical bid prices for the same products by the
 - same group of firms, or an unnatural pattern of awards that had
 - the cumulative effect of apportioning work among a fixed group
 - of bidders or proposers.
 - **Arbitrary Action.** Any arbitrary action in the procurement process.

6. PROTESTS, APPEALS AND DISPUTES

An interested party may protest the award of a contract, the proposed award of a contract, or a solicitation for supplies, services, professional services, or construction by HRCTD. The protest must be submitted in writing to County Legal Counsel and include the following information:

- a) Name, address, email address, and telephone number of the protester;
- b) Signature of the protester or their representative;
- c) Identification of the solicitation;
- d) Detailed statement of the legal and factual grounds of the protest;
- e) Copies of all relevant documents; and
- f) The form of relief requested.

Issues and facts not stated in the Notice of Protest will not be considered. All communications with involved parties shall be in writing and open for public inspection.

6.1 TIME FOR FILING A PROTEST.

A protest based on alleged improprieties or ambiguities in a solicitation must be filed at least 7 days before the due date of the bid or proposal. A protest based upon alleged improprieties in an award of a contract or a proposed award of a contract must be filed within 3 days after notification to an unsuccessful proposer or bidder that they were not selected.

6.1.1 NOTICE OF PROTEST.

HRCTD shall immediately give notice of a protest to the contractor if a contract has been awarded. If no award has been made, notice will be provided to all interested parties.

6.1.2 STAY OF AWARD.

If a protest is filed, the award may be made unless the Executive Director, with legal assistance, determines in writing that a

- a) Reasonable probability exists that the protest will be sustained; or
- b) Stay of the award is not contrary to the best interests of HRCTD.

6.2 REVIEW OF PROTESTS

The Executive Director, or designee, shall review and investigate properly filed protests and issue a written decision to the protestor.

6.2 APPEAL

A Protestor may appeal the Executive Director, or designee's formal decision to the HRCTD Board of Directors. The written appeal must be received by HRCTD within two business days after receipt of the written decision by the Protestor, or the appeal will not be considered. Properly filed appeals of the decisions of the Executive Director, or designee, shall be reviewed and investigated by the HRCTD Board Chair who shall issue HRCTD's final decision no later than 21 days after receipt.

APPENDICES

APPENDIX A: SOLE SOURCE JUSTIFICATION SHEET

Instructions: Complete this form for all sole source purchases for amounts \$3,000 and over. Maintain documentation for files.

Commodity/Service being purchased:

Proposed Supplier:

Requested by:

Date:

Sole Source Justification prepared by

A Sole Source Purchase must meet one of the following criteria:

- One-of-a-kind - The commodity or service has no competitive product AND IS AVAILABLE FROM ONLY ONE SUPPLIER.
- Compatibility - The commodity or service must match existing brand of equipment for compatibility AND IS AVAILABLE FROM ONLY ONE VENDOR.
- Replacement part - The commodity is a replacement part for a specific brand of existing equipment AND IS AVAILABLE FROM ONLY ONE SUPPLIER. Delivery date - ONLY ONE SUPPLIER can meet necessary delivery requirements.
- Research continuity - The commodity or service is needed to maintain research continuity AND IS AVAILABLE FROM ONLY ONE SUPPLIER.
- District standards - The commodity or service must comply with established District standards AND IS AVAILABLE FROM ONLY ONE SUPPLIER.
- Unique design - The commodity or service must meet physical design or quality requirements AND IS AVAILABLE FROM ONLY ONE SUPPLIER.
- Emergency - URGENT NEED for the item or service does not permit soliciting competitive bids, as in cases of emergencies, disaster, etc. II.

Provide details of this request including explanation of why only one source is reasonably available (attach separate sheet if necessary).

Executive Director, I hereby certify that the above justification is accurate and complete to the best of my knowledge and belief.

Signature

Date

APPENDIX B: PIGGYBACK WORKSHEET CHECKLIST

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

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

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.		
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,"* and (c) FTA Circular 4220.1F.

APPENDIX C: BOARD MEMBER AND COMMITTEE MEMBER CODE OF CONDUCT FORM

HRCTD’s Board Members and Committee are prohibited from participating in the selection, award, or administration of a contract if a real or apparent conflict of interest would be involved.

Such a conflict would arise when any of the parties set forth below has a financial or other interest in the firm or entity selected for award:

- The employee, officer, board member, committee member or agent;
- Any member of his or her immediate family;
- His or her partner;
- An organization that employs, or is about to employ, any of the above.

All of those who are covered by this Code of Conduct have an obligation to promptly report any actual or suspected illegal or fraudulent activities or Code violations.

All of those covered by this Code should encourage and help those around them to follow the terms of the Code and to act ethically. If there is a concern by an individual covered by the Code of Conduct, they should report such concern to the HRCTD Board Chair, Vice Chair or Executive Director as appropriate.

All concerns will be treated with confidentiality and will be investigated fully by the person receiving the complaint or an appropriate designee.

Board members or Committee Members who violate any portion of the Code of Conduct may be subject to censure, asked to step down from their position and /or such other penalties as provided for by law.

As an HRCRD Board or Committee Member, I understand my Code of Conduct obligations and agree to faithfully follow my responsibilities.

Signature

Position

Date