



Massachusetts Bay Transportation Authority

CONTRACT ADMINISTRATION
Professional Services Procurement
POLICIES & PROCEDURES –

06/20/2018

Chapter 2

Professional Services Procurement

June 2018

	<i>Massachusetts Bay Transportation Authority</i>
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CHAPTER 2 – PROFESSIONAL SERVICES PROCUREMENT

This Chapter of the MBTA Procurement Manual focuses on the selection process for consultant services. Consultant services may include program management, construction management, feasibility studies, auditing, engineering and architectural, and a myriad of other services required by the Authority. Please refer to Section 2.3 for abbreviated selection procedures applicable to procurements with an anticipated value less than \$100,000.

2.1 Architect-Engineer and related services

The Brooks Act (40 USC 1102) defines the competitive procedures to be used in the selection of architectural and engineering (A&E) firms, and these procedures apply to Authority procurements of A&E services. [FTA Circular 4220.1F.VI.3.f]

Services subject to this requirement are program management, construction management, feasibility studies, preliminary engineering, design, architectural, engineering, surveying, mapping, and related services.

For services not specifically mentioned above, A&E Services means:

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

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2.1.1 Qualifications-Based Procurement Procedures Prohibited

Unless FTA determines otherwise in writing, MBTA may not use qualifications-based procurement procedures to acquire other types of services that are not directly in support of, directly connected to, directly related to, or do not lead to construction, alteration or repair of real property. Even if a contractor has performed services listed herein in support of a construction, alteration or repair project involving real property, selection of that consultant to perform similar services not relating to construction may not be made through the use of a qualifications-based procurement.


2.1.2 Qualifications Based Selection (QBS) POLICY

If the function fits within the above definition of A&E services, 'Brooks Act procedures' apply. A&E Services are procured using the process detailed in Section 2.2 of this manual; however, cost may not be an evaluation criterion.

These procedures shall assist Authority personnel in selecting firms that demonstrate the most competence and qualifications for the type of A&E services required. In addition, because the Authority is a public entity and strives for cost efficiency, the Authority will select firms willing to negotiate a contract at a fair and reasonable price.

Brooks Act qualifications-based competitive proposal procedures require that:

- a. An offeror's qualifications be evaluated;
- b. Price be excluded as an evaluation factor [FTA Circular 4220.1F.VI.3.f(3)]
- c. Negotiations be conducted with only the most qualified offeror; and
- d. Failing agreement on price, negotiations with the next most qualified offeror be conducted until a contract award can be made to the most qualified offeror whose price is fair and reasonable to the Authority.

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2.2 CONSULTANT SELECTION PROCESS

The Authority's Professional Services consultant selection process consists of six phases:

- 2.2.1 Authorization
- 2.2.2 Announcement
- 2.2.3 Pre-selection
- 2.2.4 Selection
- 2.2.5 Negotiation
- 2.2.6 Award

The type of contract, dollar value or other circumstance may justify use of an abbreviated procedure (Section 2.3), which excludes the Announcement and Pre-Selection Phases.

2.2.1 AUTHORIZATION

The Assistant General Manager (AGM)/Director of the department with responsibility for using and administering the required professional services must authorize consultant selections. For most capital improvement projects (subsidized with federal funds or state bond proceeds) consultant selection authorization must include concurrence of the AGM for Design and Construction in addition to all other appropriate approvals. For projects charged to an operating budget, the cognizant Director (Operations, Information Technology Department, etc.) authorizes the consultant selection.

The Authorization Request must be originated by a Director or Manager and transmitted to the appropriate AGM/Director. The Authorization Request contains the following documents (Exhibit 2.1 contains samples, checklists and templates):

- Authorization Document
- Executive Summary
- Procurement Method and Contract Type Decision Matrix
- Independent Cost Estimate
- Public Announcement
- DBE Concurrence Memo
- Budget Concurrence Memo
- Recommended Consultant Selection Committee
- Request for Proposal

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Authorization Documents

Before a project may proceed to the Announcement Phase of the selection process, four authorization memoranda must have been signed:

- Authorization Cover Memo
- Budget Concurrence Memo
- Selection Committee Concurrence Memo
- DBE Concurrence Memo

First, the Project Office must prepare and submit for approval to the Budget Department a Budget Concurrence Request for identification of funding source(s). This Budget Concurrence Request must be approved in writing by the Budget Department (Exhibit 2.1.1). This memo includes a work order for advertising cost and a work order for project costs.

Second, the Project Office must prepare and submit for approval a Selection Committee Memo to the Assistant General Manager for Design and Construction requesting his/her concurrence with the proposed Selection Committee membership (Exhibit 2.1.2).

The third authorization document is a transmittal memo to the AGM/Director from the originating Director or Manager requesting approval to initiate the Consultant Selection Process (See Exhibit 2.1.3). The memo, which includes the six attachments discussed below will be signed by the originator and contain concurrence lines for required approvals. The originating AGM/Director will forward the authorization document first to the Director of Contract Administration for concurrence and second to the AGM of Design and Construction for approval. Attachments to this authorization cover memo shall include:

- Executive Summary
- Procurement Method and Contract Type Decision Matrix
- Independent Cost Estimate
- Public Announcement
- Budget Concurrence Memo
- DBE Concurrence Memo
- Recommended Consultant Selection Committee
- Request for Proposal

The Office of Diversity and Civil Rights must assign a DBE goal to each federally funded project prior to advertisement in publications or posting on the website. (See Exhibit 2.1.4)

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Once all approvals have been secured, the selection request is considered authorized and the process continues.

Executive Summary

The Executive Summary (Exhibit 2.1.5) will contain a sufficiently detailed project description; scope of work; justification; identification of funding source; independent design (Exhibit 2.1.6) and construction estimates, if applicable; tentative schedule; and method of procurement. The Executive Summary must also contain two (2) separate work order numbers - one for the estimated cost of the project and one for advertisement.

Public Announcement [FTA Circular 4220.1F.VI.2.a;VI.3.C(2)(c)]

The Public Announcement is the proposed solicitation notice intended for advertisement in local/national publications. The announcement will describe the project and specify the required services (i.e. architect, engineer, other). The project description must contain sufficient information to enable interested parties to determine if the firm has the capability/desire to perform the work.

Capable firms are invited to submit, by a specific date (a minimum of 3 weeks from the date of advertisement), letters of interest accompanied by supporting documentation detailing the firm's qualifications for the project. Supporting documentation for architectural/engineering projects consists of updated and completed Standard Form 330 Architect-Engineer Qualifications. (Non A/E contracts require resumes and qualifications to be requested). Firms must also furnish information related to their affirmative action plan and employee profile. The SF 330 is available on the General Services Administration website.

The announcement will also include a statement describing the basis for selection and evaluation criteria, such as design ability, proposed staffing, specific task related experience, and other pertinent information. The advertisement will explicitly state that consideration shall also be given to each firm's Affirmative Action Plan, Employee Profile, most current DBE certification letters, as well as its commitment to the utilization of Supplier Diversity Office (SDO) certified Disadvantaged Businesses Enterprises (DBE's) as prime, in joint venture or as subconsultants. The announcement **must** also state the funding source (federal or state).

Two different public announcements exist: one for federally funded projects and a second for state funded projects. (Exhibits 2.1.8A and 2.1.8B respectively). The announcements differ in two ways: funding source and DBE participation goals. The announcement must state whether the project is state or federally funded. Secondly, the federal government maintains a

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DBE participation goal that is set by the ODCR on a project-specific basis. In the event DBE firms are unavailable to participate on a team, the consultant must submit an attachment to their proposal documenting their good faith efforts to include DBE firms in the project team. State funded projects have no specific DBE requirement. In the event a user department is soliciting personal services or requires an expedited procurement process Exhibit 2.1.8C provides a sample solicitation.

Selection Committee

The selection committee shall be composed of senior level management personnel who are thoroughly familiar with the selection process. Committee members must also be cognizant of the intended scope of the project and the specific services requested, as well as the functional departmental concerns that are involved in the procurement.

A Senior Manager from the Department originating the Authorization Request should chair the Committee. Every committee must include the designated Project Manager; the Director of Contract Administration (or designee); and the Director of the Office of Diversity and Civil Rights (or designee) (NON-VOTING). Other persons shall be added to the committee as required. (See Exhibit 2.1.2 and 2.1.10 for guidance on selection committee make-up). Ideally a Selection Committee is comprised of an odd number of voting members, typically five members.

The administering Director is responsible for assigning members to the selection committee. As mentioned earlier, this Director must submit in writing to the Assistant General Manager for Design and Construction, a memo requesting the Assistant General Manager's concurrence with the committee assignments. (Exhibit 2.1.2)

Request for Proposals

The formal Request for Proposals (RFP) will include a detailed project description, scope of work, construction estimate/budget if applicable, schedules, standard contract provisions, DBE provisions, affirmative action requirements, and other administrative requirements deemed appropriate. (Exhibit 2.1.11). Contract Administration maintains a Model RFP that contains required and suggested language as a starting point for user departments engaging professional services of an A&E nature.

Typically, the MBTA Project Office is responsible for preparing the Request for Proposal specifications that describe its needs while assuring that those specifications are not exclusionary, discriminatory, unreasonably restrictive, or otherwise in violation of Federal laws

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or regulations. In general, the specifications should clearly describe the services to be procured, discuss the estimated schedule and state how the proposals will be evaluated. For additional guidance, see FTA Circular 4220.1F - Chapter IV Section 2 and Chapter VI Section 3.

The scope of work for preliminary and final design services (or other professional services phases) shall be specific, detailed, well-defined and provide for project schedules and anticipated deliverables upon which responsive and competitive proposals may be based.

Planning and feasibility studies that involve intensive investigations and analyses assessing broad areas of long-range capital improvement and environmental conditions shall be defined to the maximum extent possible and provide for specific deliverables.

2.2.2 ANNOUNCEMENT

Upon approval from the appropriate Department AGM/Director and concurrence from the Director of Contract Administration, the public announcement of the project will be posted on the www.mbta.com website and published in the legal notice section of local newspapers, selected local minority publications, and other publications deemed necessary to generate interest in the project [FTA Circular 4220.1F.VI.3.d.(2)(c)]. Contract Administration is responsible for posting and publishing public advertisements for professional services. If necessary, the public announcement may also be placed in appropriate local and national trade (architectural/engineering) publications. Other means of notification may be initiated as required. A copy of the fully approved authorization request must be sent to Contract Administration to initiate the public notification process. The customary publications used to announce Authority professional service solicitations are shown in Exhibit 2.1.9. [FTA Circular 4220.1F.VI.3.d(2)(a)]

2.2.3 PRE-SELECTION – QUALIFICATIONS PHASE

Selection Committee Document Distribution

After the stipulated closing date for letters of interest and/or qualifications statements, the committee chairperson shall transmit to each committee member the following:

- One copy of each Letter of Interest/Statement of Qualifications accompanied by Standard Form 330 and other materials received from responding firms.
- A Selection Committee Certification Form, which each committee member must review and sign. The purpose of the form is to underscore the significance of the Selection

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Process, while demanding impartiality and confidentiality. Exhibit 2.1.12

- A copy of the public announcement

The Committee members will evaluate and rank each of the responding firms on the basis of the criteria detailed in the Public Announcement, such as proposed staffing, design ability, and specific task-related experience. [Circular 4220.1F.VI.3.d(2)(e)]

Office of Diversity and Civil Rights (ODCR) Involvement


The Office of Diversity and Civil Rights (ODCR) shall evaluate each Letter of Interest accompanied by Standard Form 330 and other materials received from responding firms on a pass/pail basis for DBE requirements. ODCR shall send a confirming letter notifying the committee whether each firm passed or failed.

EEO/Affirmative Action compliance shall be determined on a pass/fail basis by ODCR. A form has been developed to facilitate the initial screening as detailed in Exhibit 2.1.13. The Selection Committee Chairperson shall submit all Letters of Interest (SF 330) to ODCR prior to initial review/selection. ODCR shall:

- Review submittals for compliance with DBE, EEO and AA requirements.
- Furnish written reports on all submittals with pass/fail recommendations (no more than five working days).
- Shall review the Letters of Interest (SF 330) based on the following:
 - Affirmative Action Plan
 - Employee Profile
 - SDO Certification Letters
 - DBE Contract Attachments

If, at the time of submission of Letters of Interest/Statements of Qualifications (SF 330), ODCR determines that a respondent has failed to include the most recent Affirmative Action Plan, Employee Profile, or DBE Certification Letter, the respondent will have five working days from date of notification to present the missing data to ODCR.

ODCR will notify the Selection Committee of the pass/fail status of each respondent before the initial Selection Committee meeting to grade all respondents' Letters of Interest (SF 330).

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Non A&E Procurements

For projects that are not architect/engineer related, a modified initial screening form may be developed which will allow for scoring of respondents based on the specific information requested and the overall nature of the project. For procurements other than Brooks Act, cost shall be an evaluation criterion. The evaluation criteria must be stated in the Public Announcement.

Shortlist Procedure

After the committee members have evaluated all materials submitted, the committee will meet to finalize their evaluations and rank the responding firms. The committee will recommend at least three (and possibly more if deemed appropriate by the Committee) of the highest ranking firms to whom RFPs will be issued.

The Recommendation Package (prepared by the Committee Chairperson) must be reviewed and concurred by the Director of Contract Administration and approved by the AGM/Director. The pre-selection authorization package will contain:

- approval cover memo (Exhibit 2.1.14A)
- score tabulation sheet (Exhibit 2.1.15)
- pre-selection screening forms (Exhibit 2.1.13)
- selection committee member certifications (Exhibit 2.1.12)
- letters to the respondents (Exhibits 2.1.16A and B).

The letters notifying the responding firms of selection or non-selection are prepared for the Department AGM/Director's signature. Contract Administration will issue shortlist notification letters only after obtaining final signed authorization. The shortlist letters shall include the following attachments:

- Request for Proposal
- DBE Provisions
- MBTA Standard Contract Terms (Articles II and III)

System for Award Management (SAM)

A representative from Contract Administration will verify that no firm appears on the SAM from Federal Procurement Programs maintained by the General Services Administration on the [SAM](http://sam.gov) (sam.gov).

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Review of Past Performance

The committee chairperson shall request and obtain from Contract Administration a copy of the current MBTA Consultant Evaluation Rating Sheet Scores for each of the short listed firms. The committee chairperson may contact the responsible Project Manager to obtain additional information relating to the firm's past performance. If a firm has limited experience with the Authority, the chairperson (or designee) may elect to investigate that firm's performance on contracts with other agencies.

The committee chairperson shall distribute a copy of the current MBTA Consultant Evaluation Rating Sheet or Score Summary sheet for each of the short listed firms to the selection committee members.

2.2.4 SELECTION – PROPOSAL PHASE

Proposal Distribution

After receipt of all proposals submitted by pre-selected firms by the closing date stipulated in the Request for Proposal (a minimum of 3-4 weeks from issuance of the RFP), the Committee Chairperson shall transmit to each Committee member:

- One proposal from each firm
- Proposal Evaluation Rating Sheet and Instructions (Exhibit 2.1.17 and 2.1.18)
- A report on previous MBTA contracts awarded to the firms and performance evaluation


Proposal Evaluation

Committee members will evaluate the proposals using the proposal Evaluation Rating Sheet (Exhibit 2.1.17). The instructions outline the method for the Selection Committee to conduct technical evaluations of proposals. [FTA Circular 4220.1F.3.d(2)(d)]

The option qualities or periods contained in an Offerer's proposal must be evaluated in order to determine contract award. [FTA Circular 4220.1F.VI.7.b]

Financial Responsibility Determination

Prior to initial interviews, a Contract Administration representative will analyze consultant profitability to ensure that each firm is financially stable. The consultant will submit the

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required ratios in their proposals (Article II – General Provisions Attachment K). [FTA Circular 4220.1F.VI.8.b]

Oral Interviews

At a time and place designated in the selection letter, oral presentations and interviews may be held with all firms from whom proposals were received. At the close of those interviews, committee members will complete their evaluation of written and oral presentations simultaneously based on established proposal evaluation criteria (Exhibit 2.1.17). The members will weigh evaluation factors according to the requirements of each project as stated in the RFP. Committee members will review and tabulate the scores of all firms and identify the highest-ranking firm. In turn, this firm will be recommended for selection to begin negotiation.

Selection Documentation

A representative from Contract Administration will also tabulate the rankings (first, second, third) of each firm. The firm with the lowest score in ranking will be recommended for selection.

Within a reasonable period of time after the final scoring of firms, each committee member will forward to the committee chairperson a memorandum that supports their evaluation and scoring of the proposals. This supporting memo must be sufficiently detailed and provide appropriate rationale for point scores given to each firm. Exhibit 2.1.19 is a sample memo.

The Committee Chairperson will complete a selection recommendation package. This package will consist of the following:

- An approval cover memo from the Chairperson to the appropriate Department AGM/Director (Exhibit 2.1.21)
- Tabulation of scores (Exhibit 2.1.20)
- Proposal Evaluation Sheets and supporting memos from each committee member
- Letter notifying the selected and non-selected firms (Exhibits 2.1.22 A/B/C)) prepared for the appropriate Department AGM/Director's signature. The Schedule of Cost Data is to be attached to the selected consultant letter (Exhibit 2.1.23).

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The Chairperson will forward the complete package to the Director of Contract Administration for review and concurrence. The recommendation package will then be forwarded to the appropriate Department AGM/Director for final approval. Contract Administration shall issue the letters to all participating firms.

Selection committee documents are to be maintained at two levels. The committee chairperson must ensure that all appropriate documents are furnished to Contract Administration. The Project Manager, delegated the responsibility for the contract, must also maintain full sets of selection documentation at the Project Office.

System for Award Management (SAM)

Upon final recommendation and prior to award a representative from Contract Administration will verify that no firm appears on the System for Award Management (SAM) (sam.gov).

2.2.5 NEGOTIATIONS

Contract Administration must be directly involved in all professional services negotiations. This will be accomplished in full coordination with the designated project manager and other departments/individuals deemed appropriate.

The letter to the selected firm (Exhibits 2.1.22A) will include certain information and requirements that must be addressed during initial negotiations. The selected firm must furnish specific cost data (Exhibit 2.1.23), as required by the Director of Contract Administration, to support the preliminary estimated price of the contract (estimated labor effort, hourly rates, overhead, profit factors, etc.).

The initial phase of negotiations will involve establishment of a definitive scope of work, project schedules (primarily the responsibility of the Project Manager), and determination of contract type.

The importance of the negotiation phase must be emphasized. Documentation of all efforts is required to support the reasonableness of a final negotiated contract that is in the best interest of the Authority and, correspondingly, the most efficient and effective use of public funds.

Negotiations of Contracts for A/E Services

The MBTA will negotiate a contract with the highest qualified firm for architectural and/or engineering services at compensation which the MBTA determines is fair and reasonable.

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The A&E cost proposal is typically submitted prior to award. In making such determination, the MBTA will take into account the estimated value of the services to be rendered, the scope of work, complexity, level of effort, duration, deliverables, and other professional or technical issues impacting the nature of the services.

Should the MBTA be unable to negotiate a satisfactory contract with the firm considered most qualified, at a price the MBTA determines to be fair and reasonable, negotiations with that firm shall be formally terminated. The MBTA will then undertake negotiations with the next (second) most qualified firm. Failing accord with the next (second) most qualified firm then such negotiations will be formally terminated, and the MBTA will then undertake negotiations with the next (third) most qualified firm.


Contract Cost and Price Analysis

The MBTA must perform a cost or price analysis in connection with every procurement action, including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation. The MBTA Project Manager Manual provides guidance on performing an engineering fee summary analysis for A/E contracts. Chapter 1 of this manual also discusses elements one must consider in conducting a price or cost analysis. Additional resources are available in Chapter 1, such as the FTA website and Best Practices Procurement Manual. Contract Administration assigns an independent Certified Public Accountant to perform a pre-audit on contract actions to verify the proposed cost data and profits. The Independent Cost Estimate prepared at the initiation of the procurement is also an essential tool in conducting a proper analysis. Overall, the analysis should include elements such as:

- Comparison to ICE
- Evaluation of Personnel Classifications (Senior vs. Junior level)
- Comparison of Personnel Hours
- Level of Effort Distribution
- Duration

Requests for Debriefings

Requests for debriefings shall be in writing and forwarded to the Director of Contract Administration and a copy also sent to the Committee Chairperson. Debriefings shall be made in all appropriate cases, upon request, after the award of the contract.

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2.2.6 AWARD

The Authority must make the selection to the responsible firm whose proposal is most advantageous to the Authority’s program with price and other factors considered. [FTA Circular 4220.1F.VI.3.d(2)(e)]

Staff Summary

The responsible department shall submit a Staff Summary or other appropriate authorization document (prepared in accordance with established procedures) for either the General Manager's or Board of Director's approval (as required), to award and execute a contract. Once approval is received, Contract Administration will prepare an Award/Notice to Proceed for issuance by the General Manager. The MBTA Project Manager’s Manual provides comprehensive guidance on staff summary preparation.

Pre-Audit Evaluation

Contract Administration will then perform a pre-audit evaluation to review the fairness and reasonableness of the costs submitted. No payments shall be made until the pre-audit evaluation is completed.

Written Record of Procurement History

The Project Office shall work with the Contract Administration Department to prepare for the file the Written Record of Procurement History [49 CFR § 18.36(b)(9)], [49 CFR § 19.47] [FTA Circular 4220.1F.III.3.d(1)]. This written record shall be maintained at the Project Office and Contract Administration Department. Refer to section 2.5 of this manual for detailed lists of documentation required.

Contract Execution and Payment

Once the cost proposal has been verified and appropriate negotiations completed, a formal contract will be prepared for execution.

Advance Payment - FTA Circular 4220.1F Section IV.2.b (5)(b) prohibits the use of advance payments. The MBTA may not use FTA assistance to make payments to a third party contractor before the contractor has incurred the costs for which the payments would be attributable.

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Progress Payment - FTA Circular 4220.1F Section IV.2.b (5)(b) Progress Payments are payments for contract work that has not been completed. The recipient may use FTA assistance to support progress payments provided the recipient obtains adequate security for those payments and has sufficient written documentation to substantiate the work for which payment is requested.

MBTA Standard Terms and Conditions - MBTA standard terms Article II – General Provisions and Article III - Compensation and Payment details the MBTA conditions for payment. Standard Terms Article II and III are attached as Exhibit 2.2.

Exercise of Options [FTA CIRCULAR 4220.1F, V, 7.]

When MBTA exercises an option, the terms and conditions of the option stated in the contract must be strictly adhered to and a determination must be made that the option price was better than the prices available in the market or that the option was a more advantageous offer at the time the option was exercised. The MBTA may not exercise an option unless it has determined that the option price is better than prices available in the market, or that when it intends to exercise the option, the option is more advantageous.

If a contract has one or more options and those options were not evaluated as part of the original contract award, exercising those options after contract award will result in a sole source award that requires a formal sole source justification.

Negotiating a Lower Option Price. Exercising an option after the MBTA has negotiated a lower or higher price will also result in a sole source award unless that price can be reasonably determined from the terms of the original contract, or that price results from Federal actions that can be reliably measured. In the circumstances described in this paragraph, FTA assistance may be used to support a sole source award only if that award can be justified under FTA’s third party contract standards for sole source awards.

Cost or Price Analysis. A cost analysis will be necessary whenever 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 catalogue 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.

The BPPM is available online: <https://www.transit.dot.gov/funding/procurement/third-party-procurement/best-practices-procurement-manual>.

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2.3 ABBREVIATED SELECTION PROCEDURE (SMALL PURCHASES)

When the estimated value of the professional services contract is less than \$50,000, and factors are considered appropriate to warrant its use, an abbreviated selection process may be utilized with the approval of the appropriate Department AGM/Director. For projects greater than \$50,000 but less than or equal to \$100,000, the abbreviated selection process shall require the approval of the General Manager.

The abbreviated selection procedure consists of the following steps. This process is the same process as discussed in Section 2.2, except there is no specific requirement to publicly advertise.

- **Authorization** - The Authorization Request, as described previously, will now specifically request the abbreviated procedure, justify its use and identify 3 to 5 firms considered appropriate candidates for receipt of Requests for Proposals.
- **Selection**
- **Negotiation**
- **Award**

Announcement and Pre-Selection Phases are not to be used. All other requirements of the customary selection process must be adhered to and fully documented.

2.4 COMPLIANCE WITH FTA CIRCULAR 4220.1F

All procurements must comply with FTA Circular 4220.1F requirements when the project is funded using federal funds. These requirements include but are not limited to areas of general procurement standards applicable to third party procurements, competition, methods of procurement, contract cost and price analysis, as well as current FTA mandated contract clauses as listed in Exhibit 1.4.1 of this manual and available on the FTA.DOT.GOV website. [FTA Circular 4220.1F.IV.2]

2.5 Contract Administration

2.5.1 Record of Procurement History

The Contract Administration office shall as standard practice maintain contract administration files that include at a minimum the documentation listed below. In addition, the Technical Project Manager is responsible for maintaining its own Project Office contract files. The Contract office Selection Documentation “Red Book” shall be kept in the contract file and shall contain the following documents:



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Authorization Documents

- Cover Memo
- Authorization Letter
- Executive Summary
- Independent Cost Estimate
- Procurement Method and Contract Type Decision Matrix
- DBE Concurrence Memo
- Public Announcement
- Selection Committee Listing
- RFP

Newspaper Solicitations

- Advertisement requests to the various news outlets
- Email recipients
- MBTA website posting

Shortlist Package

- Shortlist memo with shortlisted firms
- Letters to shortlisted firms selected and non-selected
- Pre-selection totals page
- Individual scoring sheets
- Committee member certifications
- System for Award Management (SAM) Confirmation

Selection Package

- Selection letter
- Evaluation scoring totals page
- Individual scoring sheets
- Supporting memos
- Letters to selected firm and non-selected firms

Staff Summary

- Full Copy

Notice to Proceed

- Signed Copy

Proposal/Contract Attachments applicable

- Clauses Standard Terms and Conditions with required Federal and FTA Clauses
- Attachment A Conflict of Interest
- Attachment B Current SDO Certification Letter (Consultant submittal)
- Attachment C DBE Schedule of Participation (Form A)
- Attachment D DBE Affidavit (Form B)

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- | | | |
|--------------------------|--------------|--|
| <input type="checkbox"/> | Attachment E | DBE Unavailable Certification (if applicable) |
| <input type="checkbox"/> | Attachment F | DBE Letter of Interest |
| <input type="checkbox"/> | Attachment G | Certification regarding Debarment |
| <input type="checkbox"/> | Attachment H | Certifications on Restrictions on Lobbying |
| <input type="checkbox"/> | Attachment I | Child Care Compliance Certification |
| <input type="checkbox"/> | Attachment J | Certificate of Non-collusion |
| <input type="checkbox"/> | Attachment K | Financial Determination |
| <input type="checkbox"/> | Attachment L | OSHA Training |
| <input type="checkbox"/> | Attachment M | Undocumented Workers Certification |
| <input type="checkbox"/> | Attachment N | MBTA Retiree Disclosure |
| <input type="checkbox"/> | Attachment O | Owner's Representative Certification (if applicable) |
| <input type="checkbox"/> | Exhibit B | List of Key Personnel |

In addition to the selection documentation, the contract file shall contain:

- The executed contract
- Contract-required insurance documentation
- Post-award (pre-performance) correspondence from or to the consultant or other government agencies
- Approvals or disapprovals of contract submittals required by the contract and requests for waivers or deviations from contractual requirements.
- Modifications/changes to the contract including the rationale for the change, amendments issued, and documentation reflecting any time and or increases to or decreases from the contract price as a result of those modifications;
- Documentation regarding settlement of claims and disputes including, as appropriate, results of audit and legal reviews of the claims and approval by the proper authority (i.e., Director, Assistant General Manager, Board of Directors) of the settlement amount;
- Documentation regarding stop work and suspension of work orders and termination actions (convenience as well as default); and
- Documentation relating to contract close-out (Close-out procedure is contained in Exhibit 2.1.25.)

2.6 Cost Principals

Federal Cost Principles Cost or prices based on estimated costs for contract under federal grants will be allowable only to the extent that costs incurred or cost estimates included in negotiated process are consistent with Federal cost principles.

As stated earlier in this Chapter, the Contract Auditor within the Contract

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Administration office or CPA pool shall perform a pre-audit evaluation of proposed cost to establish provisional indirect cost rates and billing rates and to determine the allowability of costs, and approve final vouchers.

2.7 Preclusion

As stated in Chapter 1 due to a potential conflict of interest, a designer, programmer, consultant or key subconsultant chosen by the Authority to perform a feasibility study, master plan or program for a project, shall be ineligible for a subsequent appointment or employment to perform design development services for that project, unless sound reasons in the public interest otherwise dictate. All public announcements for services referenced above must clearly indicate this requirement.

2.8 Contract Close-out

Prior to contract close-out Contract Administration Department may conduct an interim and/or post-audit to confirm appropriate charges to the contract. Upon completion of the work, the Project Manager shall prepare a Contract Close-out Report and complete a Final Consultant Performance Evaluation Rating Sheet. These shall accompany the final invoice. Retainage may be released with the final invoice in accordance with MBTA Contract Terms, Article III.

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EXHIBIT 2.1

CONSULTANT SELECTION PROCEDURE EXHIBITS

<u>EXHIBIT</u>	<u>TITLE</u>
2.1.1	Budget Concurrence Memo
2.1.2	AGM Concurrence with Selection Committee Assignments
2.1.3	Authorization for Consultant Selection
2.1.4	DBE Concurrence Memo
2.1.5	Executive Summary
2.1.6	Independent Cost Estimate Template
2.1.7	Method of Procurement Decision Matrix
2.1.8A	Sample Public Announcement (federally-funded projects)
2.1.8B	Sample Public Announcement (state-funded projects)
2.1.8C	Sample Public Announcement (combined RFQ/P)
2.1.8D	Sample Abbreviated Advertisement for Print Media (2013-02-07)
2.1.9	Publications List for Public Solicitation Notices
2.1.10	Selection Committee Membership
2.1.11	Outline of Request for Proposal (RFP)
2.1.12	Selection Committee Member Certification Statement
2.1.13	Pre-Selection Screening Form
2.1.14A	Approval of Pre-selection (Shortlist)
2.1.14B	Approval of Pre-Selection (Shortlist all firms)
2.1.15	Qualification Score Tabulation
2.1.16A	Letter to Firms receiving RFPs (Transmittal of RFP and interview invitation)
2.1.16B	Letter to Firms not receiving RFP
2.1.17	Proposal Evaluation Rating Sheet
2.1.18	Proposal Evaluation Rating Sheet Instruction
2.1.19	Sample Supporting Memo
2.1.20	Proposal-Interview Score Tabulation
2.1.21	Approval of Selection Committee Recommendation
2.1.22A	Letter to Firms Selected
2.1.22B	Letter to Firm Selected (Task Order Contract)
2.1.22C	Letter to Owners Rep Selected
2.1.22D	Letter to Firm not selected
2.1.23	Schedule of Cost Data Required for Pre-Audit (Attachment to Selection Letter)
2.1.24A	Red Book (Procurement Documents) Cover Memorandum Template
2.1.24B	Red Book (Procurement Documents) Checklist

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- 2.1.24C Red Book (procurement Documents) Checklist – Sole Source
- 2.1.25 Professional Services Close-out Procedure

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EXHIBIT 2.2

MBTA STANDARD CONTRACT TERMS

Article II – General Provisions

Article III – Compensation and Payment

NOTE: Please refer to the MBTA website for the most up-to-date version of the MBTA Professional Services Standard Terms and Conditions or contact the Director of Contract Administration.

Federal and FTA Required Clauses See Exhibit 1.4.1.