



Massachusetts Bay Transportation Authority


CAPITAL SUPPORT
POLICIES & PROCEDURES
Design Bid Build

July 2023

Chapter 4

Design-Bid-Build Procurement

July 2023

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**CHAPTER FOUR –
Design Bid Build

PROCUREMENT**

OVERVIEW

As stated in Chapter 1, the purpose of this Procurement Manual is to establish a uniform method for the Authority to use in the Design Bid Build procurement for Construction Services (general contractors and subcontractors).

This chapter does not attempt to address every conceivable situation that may arise in contracting for construction services. Rather, its aim is to provide guidelines whereby necessary construction services can be obtained on a competitive basis and in accordance with established Authority policies, Massachusetts General Law Chapter 30 39M, and Federal Transit Administration Circular 4220.1F Third Party Contracting. [FTA Circular 4220.1F.III.3.a;VI.2.e]


These procedures adhere to the FTA Circular 4220 1F and therefore, the goal is also to provide contracting guidance to all personnel throughout the MBTA as well as the construction industry at large. Additionally, the MBTA is a recipient of Federal assistance awarded by the Federal Transit Administration (FTA). The FTA Circular 4220.1F incorporates the procurement provisions of the Safe, Accountable, Flexible, Efficient Transportation Act: A Legacy for Users (SAFETEA-LU) and includes the most recent guidance for the Federal Public transportation program as of November 1, 2008.

FULL AND OPEN COMPETITION

The Authority shall use the competitive procedure or combination of competitive procedures that is best suited under the circumstances of construction procurement and complies with MBTA policy and Federal Transit Administration requirements and guidelines where applicable. Please see additional chapters in this manual for alternative delivery methods, such as design-build, construction manager at risk and others.

The Authority shall obtain full and open competition using competitive procedures in accordance with the requirements of this manual. Some situations considered restrictive of competition and are prohibited are discussed in Chapter 1.

The MBTA’s Capital Programs is responsible for the overall competitive bidding and award process for construction contracts on major programs while developing and maintaining central files for each project. Capital Support’s primary goal is to ensure that all contracts are awarded to the lowest responsive, eligible, and responsible bidder, are within specification requirements and in compliance with MBTA procurement policies and procedures and other Federal and State laws, rules, and regulations. Capital Support is also charged with the responsibility of maintaining

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procurement programs including monthly construction payments, change order process, contract quantity variance reporting, contract close-out process and preparation and furnishing of statistical contract data and summary reports to the appropriate State and Federal audit agencies and in-house staff. The following are the steps to successful construction procurement:

1. Contract Specification Review and Authorization to Advertise
2. Issuance of Bidding Documents, Prequalification and Bid Opening
3. Pre-Award
4. Contract Award and Execution
5. Record of Procurement

4.01 CONTRACT SPECIFICATION REVIEW AND AUTHORIZATION TO ADVERTISE – FTA Circular 4220.1F.VI.2.a;VI.3.C(2)(c)

The MBTA’s Capital Support Department provides review of all construction contract specifications prior to and during the advertisement and bidding period. This review is to ensure that the proper format is followed and that the specifications are consistent with the Authority’s policies. This review is performed at the 60%, 90% and 100% design levels for all construction contracts.

Please refer to the [Construction Advertisement SOP](#)

4.02 ISSUANCE OF BIDDING DOCUMENTS, PREQUALIFICATION AND BID OPENING

In accordance with FTA Circular 4220.1F and M.G.L. Chapter 30, 39 M, the MBTA’s primary goal is to ensure that all contracts are awarded to the lowest eligible, responsive, and responsible bidder. Below is a link to the summary of steps performed by Capital Support for MBTA Bid Openings, prequalification and subsequent pre-award actions.

Please refer to the [Construction Bidding SOP](#) for further guidance.

4.04 PRE-AWARD

After the bids are publicly read, the Engineer of record and Contract Services performs a bid analysis of all submitted bids to ascertain that the bids have met all the requirements. Contract services reviews all submitted documents for responsiveness, eligibility, and responsibility. The Engineer of Records also provides a recommendation to the MBTA to accept and award the contract to the lowest responsive, eligible and responsible bidder’s bid that is fair and reasonable. If bids are over or under 10% of the engineer estimate, a root cause analysis must also be included in the recommendation.

Please refer to the [Contract Pre Award SOP](#) for further guidance



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4.05 CONTRACT AWARD AND EXECUTION

Below are the steps necessary to officially execute a construction contract:

Please refer to the [Contract Award and Execution SOP](#) for further guidance

4.06 RECORD OF PROCUREMENT

A written record of procurement shall be maintained by the project office and Capital Program Support Department. Refer to Exhibit XX of this manual for detailed lists of documentation required.


- Executed contract
- Modifications (Change Orders, Extra Work Order Letters, Contract Quantity Variance Reports & Claims)
- Payment Book(s)
- Approvals or Rejection of Waivers & Deviations
- Documentation regarding Disputes, Settlements, Audits and Legal Reviews
- Termination or Suspension of Work Orders
- Contract-required insurance documentation
- Post-award correspondence from or to the contractor or other government agencies
- Approvals or disapprovals of contract submittals required by the contract and requests for waivers or deviations from contractual requirements.
- 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, Chief of Capital Programs, Fiscal & Management Control Board) 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

4.07 CONTRACT CLOSE-OUT

The Project Manager's Manual, Section 10 provides specific guidance for Project Managers and Capital Support to ensure proper Project Closeout

4.08 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]

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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; however, mobilization costs for construction projects are one of the exceptions discussed in the FTA Circular 4220.1F.

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 Authority may use FTA assistance to support progress payments provided the Authority obtains adequate security for those payments and has sufficient written documentation to substantiate the work for which payment is requested. The MBTA payment terms are provided in **Exhibit 4.15**. Please refer to the MBTA Project Manager’s Manual and Project Controls Manual for additional guidance on the payment process for construction contracts.

MBTA Standard Terms and Conditions - MBTA standard terms Section 00200-Instruction to Bidders, Section 00700 – General Conditions, Section 00800- Supplementary Conditions and Section 01150/1 Measurement and Payment details the MBTA conditions for payment. Standard Terms can be found in **Exhibit 4.15**

4.09 MBTA CHANGE ORDER GUIDELINES

MBTA Change Order Guidelines details the Authority’s change order process. These guidelines are available to contractors on the MBTA website. The MBTA’s Project Manager (PM) shall take the lead in administering this procedure. The dollar value of the change order is used to determine the proper level of authority. Staff summaries are required for all actions that require Fiscal & Management Control Board approval. When a Change Order requires Fiscal & Management Control Board approval, the PM prepares the Staff Summary and works with Capital Support to process the change order through the Authority’s signatory process. Exhibit 4.16

4.10 CAPITAL SUPPORT

The Project Manager is responsible for maintaining contract files as specified in the Project Manager’s Manual.

Capital Support shall maintain contract files that include at a minimum the documentation listed below. Capital Support shall compile Pre-Advertisement” and Pre Award “for the contract file. The Capital Support files shall contain the following documents:



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EXHIBITS

**DESIGN BID BUILD PROCEDURE
EXHIBITS**

EXHIBIT

TITLE

4.1 Standard Contract Terms

Section 00200 – Instruction to Bidder
Section 00700 – General Conditions
Section 00800 – Supplementary Conditions
Section 01150/1 – Measurement and Payment

4.2 Change Order Guidelines