



Chapter 1

MBTA Procurement Policy



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Chapter 1: MBTA Procurement Policy

1.1. INTRODUCTION

1.1.1. Purpose / Overview

This Procurement Policies and Procedures Manual (Manual) is established to ensure the Massachusetts Bay Transportation Authority (Authority) sources required goods and services including construction in a fair, open, and competitive manner, and that procurement and contracting is done in compliance with the governing State and, when applicable, Federal law and regulations.

The policies in this Manual address both State-funded and Federal-funded procurements. Distinctions in requirements that depend upon the funding source are clearly stated.

State-funded procurements are governed by MGL Ch. 161A and this Policy. Where applicable, additional procurement categories are conducted pursuant to applicable statutes, including, but not limited to, Construction (MGL Ch. 30 Sec 39M), Job Order Contracting (MGL c. 6C s. 77), and Energy Efficiency (MGL 25A).

When Federal funds are used, applicable state requirements apply and additional federal requirements may apply depending on the nature and value of the procurement. With Federal funds, Goods and Services procurements are governed by 2 CFR 200 Sec 318 – 327 and Federal Transportation Authority (FTA) Circular 4221.G. In addition, the Brooks Act (40 USC Sec 1101 -1104) applies when procuring architectural or engineering services.

For good cause, the Authority's Chief Procurement Officer (CPO), may, at the CPO's discretion, permit deviation from state policy requirements. Circumstances warranting such waiver shall include, but are not limited to, (1) emergency circumstances that require immediate acquisition of goods or services, (2) a need to extend existing contracts to avoid lapses in provision of essential goods or services, and (3) the CPO deems such deviation or waiver to be substantially consistent with the Authority's



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overall goals of open fair and competitive procurement practices. In such instances where the CPO deems a waiver appropriate, such decisions shall be documented in writing.

All Authority procurements using federal funds must comply with the policy and procedures set forth in this Manual. [[2 CFR §§ 200.317 - 200.327](#)] [[FTA C 4220.1G,III,3,a](#)]

1.1.2. Oversight of Procurement Activities

Procurement oversight of goods and services resides with the Chief Procurement Officer and procurement oversight of construction services resides with the Chief of Capital Programs Support.

The Authority's procurement process is centralized. Individuals and departments are not permitted to conduct procurement activities (including, but not limited to, purchase commitments, contract and change order negotiations, price or service level changes to existing agreements, software license agreements, pilot programs, and contract amendments) without the engagement and direction of either the Procurement & Logistics team or the Capital Programs Support team.

1.1.3. Changes in Law and Regulation

State and federal laws and regulations, as well as Federal Transit Administration requirements and guidelines (collectively, "State and Federal Requirements") are updated from time to time. This Procurement Manual refers to and incorporates provisions from various State and Federal Requirements. The Authority continues to update the MBTA policy from time to time, however such updates may not align with the timing of updates to State and Federal Requirements. To the extent any section in the MBTA policy is inconsistent or conflicts with any State and Federal Requirement (each as updated from time to time), the Authority shall comply with the then-current requirement and the applicable section in the MBTA policy shall not apply.

1.1.4. Organization and Structure of this Manual



Chapter 1 defines the Authority's Procurement and Construction Policies. The chapters that follow provide the associated procedures and supporting exhibits, checklists, and templates. This Manual does not attempt to address every conceivable situation that may arise in the contracting of goods and services or construction services / project delivery.

1.1.5. Organization and Structure of Chapter 1: MBTA Procurement Policy

Chapter 1 is organized so that policies, procurement methods, and associated elements are sequenced to correlate with the end-to-end sourcing process:

- Section 1.2 General Policies and Practices
- Section 1.3 Requirements Definition
- Section 1.4 Supplier Qualification
- Section 1.5 Sourcing Strategy
- Section 1.6 Award, Negotiation & Contract
- Section 1.7 Manage Supplier Performance / Contract Administration
- Section 1.8 Assistance, Guidance, and Governing Documents

1.1.6. Applicability Guide

Reference the "Applicability Guide" at the end of Chapter 1 to help navigate when a policy section is required for the funding source and purchase threshold.

The symbols below are found throughout Sections 1.3 to 1.7 of Chapter 1. They provide the applicability for the policy section based on the funding source and dollar threshold:

- Funding Source:



Federal Funded



State / Non-federal Funded

- Dollar Threshold:

\$ Micro-purchase: <\$10 K

\$\$ Small (or Simplified Acquisition): \$10K - <\$200K

\$\$\$ Large: \$200K +



1.2. GENERAL POLICIES AND PROCEDURES

1.2.1. MBTA Standards

The Authority maintains and enforces written standards of conduct governing the performance of its employees. All employees are subject to the MBTA Employee Code of Conduct, which is posted on the MBTA's Intranet site ("TSTOP"). An acknowledgement of the Code of Conduct is required of all employees. [\[2 CFR § 200.318\(c\)\(1\)\(2\)\]](#) [\[FTA C 4220.1G, III,1\]](#). Specifically, all employees participating in procurement activities shall ensure that their activities are consistent with MGL c. 268A (Conflict of Interest), and that confidentiality is maintained throughout the procurement process. Contractors providing advisory services shall also comply with conflict of interest and confidentiality requirements. Any questions, concerns or disclosures regarding these obligations shall be promptly directed to the Chief Procurement Officer or the appropriate Strategic Sourcing Lead, who may seek additional guidance, as needed.

1.2.2. Controls, Governance & Compliance

The Authority has incorporated procurement elements into this Manual to maintain an efficient and effective procurement system that expends funds in accordance with best practices and applicable law, regulation, and policy.

The Authority shall perform annual self-certifications, annual single audits conducted in accordance with [\[OMB Circular A-133\]](#), take part in FTA triennial reviews, and participate in periodic FTA Procurement System Reviews (PSRs) to ensure it complies with federal requirements. More PSR information is available on the FTA website. [\[FTA Procurement System Review \(PSR\)\]](#).

1.2.3. Purchase Thresholds



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MBTA procurements are divided into 3 categories based upon the purchase amount:

- Micro-Purchases: Under \$10,000
- Small Purchases (or Simplified Acquisitions): Under \$200,000
- Large Purchases: \$200,000 or more

1.2.4. Responsible Contractors

The Authority shall only award contracts to responsible contractors able to successfully perform the requirements of the contract. It is appropriate to consider contractor integrity, public policy compliance, proper classification of employees according to the Fair Labor Standards Act, past performance, and financial and technical resources. In addition, the Authority shall not contract with debarred or suspended contractors. [\[2 CFR § 200.318\(h\)\]](#), [\[FTA C 4220.1G,IV,2.a\]](#),[\[MGL c. 29, s. 29F\]](#)

1.2.5. Protest Procedures

The Authority maintains written protest procedures and makes these publicly available on its website at www.mbta.com. [\[2 CFR § 200.318\(k\)\]](#),[\[FTA C 4220.1G,III,7\]](#).

1.3. REQUIREMENTS DEFINITION

1.3.1. Overview

The definition of requirements or proposed statement of work (“SOW”) is the initial step in the procurement process. Requirements (or a SOW) clearly and accurately describe the specifications, technical requirements, and minimum performance requirements that satisfy the needs of the Authority. Effective requirements definition enables full and open competition. This section provides the Authority’s policy associated with requirements definition.

1.3.2. Most Efficient and Economic Purchase



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The Authority shall review proposed procurements to avoid the purchase of unnecessary property and services, including duplicative items and unnecessary options.

The Authority shall also review proposed procurements to obtain the best value, most efficient and economic purchase. This includes considering consolidation or separation of procurements to obtain greater value.

When appropriate, the Authority shall conduct an analysis between leasing and purchasing property or equipment to determine the most economical approach. [[2 CFR § 200.318\(d\)](#)],[[FTA C 4220.1G,IV,1.e](#)]

Applicability Guide: All federal- and state-funded procurements.



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1.3.3. Excess and Surplus Property

When possible, the Authority shall seek to use excess or surplus property whether Federal or from a Massachusetts or local government source. [[2 CFR § 200.318\(f\)](#)]

Applicability Guide: Small and large federal- and state-funded procurements.



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1.3.4. Domestic Preference

To the degree practical, the Authority shall provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). These requirements must be included in all subawards, contracts, and purchase orders under Federal awards.

For purposes of this section:

- (1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
- (2) "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum;



plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

[\[2 CFR § 200.322\]](#)

Applicability Guide: All federal-funded procurements.



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1.3.5. Recovered Materials

The Authority and its contractors must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 ([42 U.S.C. 6962](#)). The Authority and its contractors shall procure only items designated in the guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

In addition, the MBTA shall, to the greatest extent practicable and consistent with law, purchase, acquire, or use products and services that can be reused, refurbished, or recycled; contain recycled content, are biobased, or are energy and water efficient; and are sustainable. When possible, single use plastics are to be avoided. [\[2 CFR § 200.323\]](#)

Applicability Guide: Small and large federal-funded procurements.



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1.3.6. Objective Specifications

To prevent unfair competitive advantage, the Authority will not permit contractors that develop specifications, requirements, SOWs, or bid documents to bid on those procurements. [\[2 CFR § 200.319\(b\)\]](#)

Applicability Guide: Small and large federal- and state-funded procurements.



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1.3.7. Competition

Starting with Requirements Definition and continuing at all stages throughout the procurement process, the Authority shall ensure that procurement transactions allow for full and open competition consistent with this Manual, and additionally with [\[2 CFR § 200.319\]](#) and [\[2 CFR § 200.320\]](#) when federal funds are used. Situations considered to restrict competition are not permitted, including but not limited to:

- (a) Unreasonable requirements of bidders, including but not limited to excessive staffing requirements, excessive financial resources, unjustified geographic presence, or arbitrary business capabilities in order for them to qualify to do business [\[2 CFR § 200.319\(a\)\(c\)\(1\)\]](#)
- (b) Unnecessary experience and/or excessive bonding requirements. See Chapters 3, 4, and 5 for bonding requirements applicable to procurement types (i.e., Design-Bid-Build, Design-Build, Goods & Services) [\[2 CFR § 200.319\(a\)\(c\)\(2\)\]](#)
- (c) Noncompetitive pricing practices between firms or affiliated companies [\[2 CFR § 200.319\(a\)\(c\)\(3\)\]](#)
- (d) Noncompetitive contracts to consultants on retainer contracts [\[2 CFR § 200.319\(a\)\(c\)\(4\)\]](#)
- (e) Organizational conflicts of interest (see Section 1.3.8) [\[2 CFR § 200.319\(a\)\(c\)\(5\)\]](#)
- (f) Any arbitrary action in the procurement process, such as including incongruous classifications of work in a single specification or awarding a contract to a bidder who did not provide the lowest price without including appropriate justification with the procurement file [\[2 CFR § 200.319\(a\)\(c\)\(7\)\]](#)

Applicability Guide: All federal- and state-funded procurements.



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1.3.8. Organizational Conflict of Interest

The Authority shall work with stakeholders to identify and address in an appropriate manner any potential conflict of interest.

An organizational conflict of interest occurs when any of the following circumstances arise:



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- (a) The contractor has a lack of impartiality due to other activities, relationships, contracts, or other circumstances.
- (b) The contractor's objectivity in performing contract work is or might be impaired due to other activities, relationships, contracts or other circumstances.
- (c) The contractor has an unfair competitive advantage.

The Authority shall document the decision not permitting a contractor to bid when a conflict of interest occurs due to lack of impartiality, impaired objectivity, or unfair competitive advantage.

[\[2 CFR § 200.319\(c\)\(5\)\]](#), [\[FTA C 4220.1G,VI,2.e\(9\)\(b\)\]](#), [\[BPPM § 2.4.2.2.2\]](#)

Applicability Guide: All federal- and state-funded procurements.



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1.3.9. Brand Name Restrictions

For federal procurements the Authority shall ensure material, product, or service description does not contain any feature that is restrictive to competition. The minimum acceptable competitive purchase description is the identification of a requirement by the use of a brand name followed by the words "or equal." [\[2 CFR § 200.319\(b\)\(6\)\]](#), [\[FTA C 4220.1G,VI,2.e\(7\)\]](#), [\[BPPM §§ 2.4.2.1 & 2.4.2.2.1\]](#)

- (a) Detailed product specifications should be avoided in favor of performance specifications. [\[FTA C 4220.1G,III,3.a\(1\)\(d\)\]](#)
- (b) A 'brand name or equal' description may be used as a means to define the performance or other salient characteristic. Required characteristics or features of the named brand must be stated. [\[FTA C 4220.1G,VI,2.c\]](#), [\[BPPM §§ 4.3.2, 4.4.1, 4.5.1, and 4.5.2\]](#)

Applicability Guide: Small and large federal-funded procurements.



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1.3.10. Clear, Accurate, and Complete Specification

The Authority shall ensure each solicitation includes requirements or a SOW with a clear and accurate description of the technical and



performance requirements which a material, product, or service must meet if it is to satisfy its intended purpose. [\[2 CFR § 200.319\(d\)\(2\)\]](#)

A clear, accurate, and complete specification:

- (a) Provides clear and accurate description of the technical requirements [\[FTA C 4220.1G,VI,2.a\]](#), [\[BPPM § 3\]](#)
- (b) May include a statement of the qualitative nature of the goods or services to be procured [\[FTA C 4220.1G,VI,2.b\]](#)
- (c) Does not contain features that restrict competition [\[FTA C 4220.1G,III,3.a\(1\)\(b\)\]](#)
- (d) Describes technical requirements in terms of functions to be performed or performance required, including the range of acceptable characteristics or minimally acceptable standards. [\[FTA C 4220.1G,III,3.a\(1\)\(d\)\]](#)
- (e) Is complete, adequate, and a realistic specification or purchase description that avoids excessively detailed product or service specifications when possible [\[FTA C 4220.1G,VI,3.c\(1\)\(a\)\]](#)
- (f) Includes any specification and pertinent attachments in order for a bidder to properly respond [\[FTA C 4220.1G,VI,3.c\(2\)\(b\)\]](#)

Applicability Guide: Small and large federal- and state-funded procurements.



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1.3.11. Independent Cost Estimate (ICE)

For federal-funded large purchases, the Authority shall develop independent cost estimates before receiving bids or proposals. For state-funded large purchases, this is a best practice and should be conducted when feasible. The estimates may be made by Authority personnel, design consultants, or independent cost estimators hired by the Authority. Methods and amount of analysis for developing independent cost estimates may vary based upon the procurement transaction. Possible methodologies include but are not limited to:

- (a) Published competitive prices (e.g., catalogs, web pages)
- (b) Results of previous procurements of the same items, with inflation factored in
- (c) Estimates by in-house or external estimators
- (d) Financial analysis of supplier costs to deliver the good or service

[\[2 CFR § 200.324\(a\)\]](#), [\[FTA C 4220.1G,VI,4\]](#), [\[BPPM § 2.3.2\]](#)



Applicability Guide: Large federal-funded procurements.



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1.4. SUPPLIER QUALIFICATION

1.4.1. Overview

Supplier qualification enables the evaluation of suppliers according to a set of predefined criteria to meaningfully support the procurement function goals within the Authority. This section covers solicitation for prequalification, criteria, expanding opportunity for participation for disadvantaged business, and avoiding preclusion.

1.4.2. Prequalification System

The Authority may prequalify people, firms, or products for participation in its procurements provided that: lists are current, lists include enough qualified sources to ensure maximum open competition, and potential bidders are allowed to qualify during the solicitation period. When used, prequalification processes should be established so the list remains current and provides full and open competition. When prequalification lists are established or amended, objective factors must be considered to evaluate price and cost to maximize competition.

The Authority is not required to hold a solicitation open to accommodate a bidder that submits a person, firm, or product for approval during a solicitation.

[\[2 CFR § 200.319\(e\) \]](#), [\[FTA C 4220.1G, VI, 1.c\(1\),\(2\),\(3\),\(4\)\]](#)

The Authority typically pre-qualifies construction services contracts with values greater than \$1 million unless this requirement is waived in the bid document(s) for the procurement.

Applicability Guide: Small and large federal- and state-funded procurements.



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1.4.3. Broad Solicitation



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The Authority strives to promote the economic growth and development of vendors, consultants and contractors through broad solicitation and award of contracts. The MBTA does not allow consultants to submit qualifications statements and proposals as a prime consultant and as a subconsultant for the same contract; however, consultants may serve as a subconsultant on more than one proposing team.

Applicability Guide: Small and large federal- and state-funded procurements.



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1.4.4. Disadvantaged Business Enterprises (DBEs)

In accordance with and as of the effective date of the Interim Final Rule regarding 49 CFR Parts 23 and 26 (IFR) released on October 3, 2025, the Authority is currently not setting DBE goals on new or ongoing procurements.

For federal-funded contracts, vendors, consultants and contractors shall promote affirmative action and equal employment opportunities.

Applicability Guide: Large federal-funded procurements.



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For state-funded contracts, while there is no DBE goal, the Authority shall encourage the use of Minority, Women and Disadvantaged Business Enterprises as prime consultants, subconsultants and suppliers in all contracting opportunities.

Applicability Guide: Large State-funded procurements.



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1.4.5. Preclusion

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.

Applicability Guide: Small and large federal- and state-funded procurements.



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1.5. SOURCING STRATEGY

1.5.1. Overview

This section addresses the Authority's Policies specific to the selection of sourcing strategies and procurement methods for the procurement of goods and services including construction. The Policies incorporate applicable Federal and State regulations. Requirements specific to the Award, Negotiation, & Contracting are found in Section 1.6.

Selecting the appropriate sourcing strategy and procurement method requires an evaluation of the expected value of the procurement, the nature of the good or service to be procured, and the funding source to be used.

Chapter 1 addresses the applicable Policy specific to each procurement method. Procedures are addressed in subsequent Chapters of this Manual.

1.5.2. General Requirements of all state- and federal-funded solicitations

All solicitations, regardless of funding source or dollar value, must:

- Identify requirements which bidders must fulfill and that will be used in evaluating bids [[2 CFR § 200.319\(d\)](#)]

Applicability Guide: All federal- and state-funded procurements.



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1.5.3. General Requirements of all federal-funded solicitations

All federal-funded solicitations, regardless of dollar value, must:



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- When possible, ensure that small businesses, minority businesses, women's business enterprises, veteran-owned businesses, and labor surplus area firms are considered []
- Such consideration shall mean:
 - Including these firms on solicitation lists
 - Soliciting these firms when they are eligible potential sources
 - Dividing procurement transactions to permit maximum participation by these firms
 - Establishing delivery schedules that encourage participation by these firms
 - Utilizing organizations such as the Small Business Administration and Minority Business Development Agency of the Department of Commerce
 - Requiring contractors to apply this section to subcontracts
- Limit use of time-and-materials contracts to only following a determination that no other contract type is suitable and if there is a ceiling price that the contractor exceeds at their own risk [\[2 CFR § 200.318\(i\)\(1\)\(i\)\(ii\)\]](#)
- Consider use of State and local intergovernmental agreements or inter-entity agreements when appropriate for the procurement or use of common or shared goods and services. [\[2 CFR § 200.318\(e\)\]](#) Such agreements must follow the FTA's procurement standards and ensure competition and compliance with applicable regulations. [\[FTA C 4220.1G, V, 4.b\]](#)

Applicability Guide: All federal-funded procurements



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1.5.4. Sourcing Methods

The Authority has established sourcing strategies and procurement methods for the procurement categories listed below.

- Micro-Purchase (<\$10,000)
- State Contract or Consortium Purchase
- Small Purchase or Simplified Acquisition (\$10,000 - <\$200,000)
- Sealed Bid
- Competitive RFP
- Sole Source or Noncompetitive procurements



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- A&E Professional Services (Brooks Act for Architecture/Engineering Services)
- Construction Services
- Job Order Contracting
- Energy Conservation Projects (per M.G.L. Chapter 25A Section 14)
- Unsolicited Proposals

A description of each and the relevant policy follows in the subsequent sections. At its discretion the Authority may elect to follow a more restrictive procedure or process for a particular procurement action.

1.5.4.1. Micro-Purchase

The Authority has established the Micro-Purchase threshold listed in Sections 1.2.3 and 1.5.2 based on the requirements in [\[2 CFR § 200.320\(a\)\(1\)\(iii\)\]](#).

The total value of the procurement action must be below the Micro-Purchase threshold, and the Authority shall not split procurements with a value greater than that amount in order to consider a purchase to be a Micro-Purchase.

Micro-purchases may be awarded without soliciting competitive price or rate quotations if the price is considered reasonable based on research, experience, purchase history, or other information. To the extent practicable, the Authority shall distribute micro-purchases equitably among qualified suppliers. [\[2 CFR § 200.320\(a\)\(1\)\]](#), [\[FTA C 4220.1G, VI, 3.a\]](#), [\[BPPM § 4.1\]](#)

Applicability Guide: Micro-purchase
federal- and state-funded procurements.



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1.5.4.2. State Contract or Consortium Purchase

The Authority may, at its option, purchase through contracts established by the Commonwealth of Massachusetts Operational Services Division (OSD). These competitively-sourced contacts offer state-negotiated pricing and an efficient procurement process. Each contract has a unique “User Guide” that explains the requirements for use, which may include soliciting quotations.



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The Authority may also purchase through contracts from the Massachusetts Department of Transportation or any other state or local (Massachusetts) government or quasi-government agency, to the extent that such contract permits it to do so.

The Authority's Procurement & Logistics department also maintains a list of procurement Consortia (also known as Group Purchasing Organizations or GPOs) that it is eligible to use. GPOs on this list have been reviewed by a member of the Procurement leadership team, and the GPOs listed are reviewed periodically.

Applicability Guide: All non-construction state-funded procurements.



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1.5.4.3. Small Purchase or Simplified Acquisition

The Authority has established the Small Purchase or Simplified Acquisition threshold listed in Sections 1.2.3 and 1.5.2 based on the requirements in [2 CFR § 200.320\(a\)\(2\)\(ii\)](#).

For a Small Purchase the Authority shall obtain price or rate quotations from an adequate number of qualified sources. The Authority shall not split procurements with a value greater than that amount in order to consider a purchase to be a Small Purchase.

The Small Purchase policy does not apply to construction services as defined by [M.G.L. Chapter 30 Section 39M](#), or to procurement methods otherwise prescribed by statute that are inconsistent with this approach.

[\[2 CFR § 200.320\(a\)\(2\)\]](#), [\[FTA C 4220.1G,VI,3.b\]](#), [\[BPPM § 4.2\]](#),
[\[M.G.L. Chapter 30 Section 39M\]](#)

Applicability Guide: All non-construction
Small Purchase federal- and state-
funded procurements.



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1.5.4.4. Sealed Bid



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In a Sealed Bid procurement, bids are publicly solicited through an invitation and a firm fixed-price award (either lump sum or unit price) is made to the lowest responsible bidder whose bid conforms to the requirements and terms of the bid. Note: Construction Services are addressed in Section 1.5.4.8 below.

In addition to the above, the following requirements apply to a Sealed Bid procurement:

- Bids must be solicited from an adequate number of qualified sources
- Bidders must have sufficient response time
- The bid must define the goods or services to be procured with appropriate information including any required specifications
- If specified in the bid documents, discounts, transportation cost, and life-cycle costs must be considered in determining the lowest bid. Payment discounts may only be considered if the Authority determines such discounts are likely to be obtained based on past experience.
- It is not expected to be necessary to have discussions with bidders following receipt of bids
- If applicable, the award may include defined economic price escalations.
- Documentation must be developed and retained for any rejected bids.

[\[2 CFR § 200.320\(b\)\(1\)\]](#), [\[FTA C 4220.1G,VI,3.c\(1\),\(2\)\]](#)

Applicability Guide: Non-construction
Large Purchase federal- and state-
funded procurements.



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The following additional requirements apply to a federal-funded Sealed Bid procurement:

- Bids must be publicly advertised. This includes posting on a bidding website as long as the bid is visible to all interested, registered bidders using that website. Additional advertising requirements may apply where required by statute or



regulation, or may be used to inform a broad range of suppliers of potential opportunities.

- Bids must be opened publicly. This may be conducted via web meeting.
- A firm-fixed-price contract will be awarded in writing to the lowest responsive bid and responsible bidder.

[\[2 CFR § 200.320\(b\)\(1\)\]](#), [\[FTA C 4220.1G, VI, 3.c\(1\),\(2\)\]](#)

Applicability Guide: Non-construction
Large Purchase federal-funded
procurements.



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1.5.4.5. Competitive RFP or Proposal

A Competitive RFP or Proposal is used for a non-construction procurement when Sealed Bids are not appropriate, typically because the most advantageous bid for the Authority (or the best value) may not be the lowest price. The Authority generally conducts Sealed Bid procurements through a two-step process: an initial technical evaluation followed by a price proposal review phase.

As part of a Competitive RFP process, the Authority may elect to conduct a technical evaluation process with multiple stages. For example, an initial evaluation process may be used to determine which bidders will advance to a “short list” or finalist phase. Alternately, a “pilot” or “proof of concept” exercise may be conducted with one or more bidders as part of the evaluation process. The bid documents must define this process for prospective bidders.

Competitive RFPs may result in a fixed-price or cost-reimbursement contract. Note: Architectural/Engineering Services are addressed in Section 1.5.2.6 below.

In addition to the above, the following requirements apply to a Competitive RFP procurement:

- Bids must be solicited from multiple qualified sources



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- Public notice of the bid must be provided. This includes posting on a bidding website as long as the bid is visible to all interested, registered bidders using that website.
- Bidders must have sufficient response time
- The bid must define the goods or services to be procured with appropriate information including any required specifications
- All evaluation factors must be identified in the bid documents
- Written procedures are followed for conducting technical evaluations and making selections
- To the degree practicable, any proposals submitted must be considered
- Contracts must be awarded to the responsible bidders whose proposal is most advantageous, with price and other factors considered (or the bidder who provides the 'best value' to the Authority)
- Documentation must be developed and retained for any rejected bids.

[\[2 CFR § 200.320\(b\)\(2\)\]](#), [\[FTA C 4220.1G,VI,3.d\(1\),\(2\),e\]](#)

Applicability Guide: Non-construction
Large Purchase state- and federal-
funded procurements.



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The following additional requirements apply to a federal-funded Competitive RFP procurement:

- The relative importance of the evaluation factors must be identified in the bid document.
- Bids must be publicly advertised. This includes posting on a bidding website as long as the bid is visible to all interested, registered bidders using that website. Additional advertising requirements may apply where required by statute or regulation, or may be used to inform a broad range of suppliers of potential opportunities.
- Bids must be opened publicly. This may be conducted via web meeting.

[\[2 CFR § 200.320\(b\)\(1\)\]](#), [\[FTA C 4220.1G,VI,3.d\(1\),\(2\),e\]](#)



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Applicability Guide: Non-construction
Large Purchase federal-funded
procurements.



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1.5.4.6. Sole Source or Noncompetitive Procurement

1.5.4.6.1. Purpose and Scope

Sole source or noncompetitive procurements are accomplished through solicitation or acceptance of a proposal from only one source, or after solicitation of several sources, competition is determined to be inadequate. A contract amendment or change order that is not within the scope of the original contract is also considered a sole source procurement and requires adequate documented justification.

Procurement of goods or services without competition is authorized under limited conditions and subject to written justification documenting the conditions that preclude competition. [\[2 CFR § 200.320\(c\)\]](#),[\[FTA C 4220.1G,VI,3.h\]](#)

Applicability Guide: Small
and large federal- and state-
funded procurements.



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1.5.4.6.2. Sole Source if Other Award is Infeasible – Goods & Services

For federal- and state-funded Goods & Services procurements, the Authority shall utilize a noncompetitive proposal only when the award of a contract by other sourcing method is infeasible and at least one of the following circumstances applies: [\[2 CFR § 200.320\(c\)\]](#),[\[FTA C 4220.1G,VI,3.h\(1\)\]](#)

(a) The amount of the procurement transaction does not exceed the micro-purchase threshold. [\[2 CFR § 200.320\(c\)\(1\)\]](#),[\[FTA C 4220.1G,VI,3.h\(1\)\(a\)\]](#)



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- (b) Supplies or services are available from only one responsible source, and no other type of supplies or services will satisfy the requirements. [[2 CFR § 200.320\(c\)\(2\)](#)],[[FTA C 4220.1G,VI,3.h\(1\)\(b\)](#)])
- (c) The need for supplies or services is of unusual and compelling urgency or a public emergency will not permit a delay resulting from a competitive solicitation. In these cases, the procurement should be limited to only the quantity or the time period necessary to see the MBTA through the emergency. [[2 CFR § 200.320\(c\)\(3\)](#)],[[FTA C 4220.1G,VI,3.h\(1\)\(c\)](#)])
- (d) FTA authorizes noncompetitive negotiations. [[2 CFR § 200.320\(c\)\(4\)](#)],[[FTA C 4220.1G,VI,3.h\(1\)\(e\)](#)])
- (e) After solicitation of several sources, competition is determined to be inadequate [[2 CFR § 200.320\(c\)\(5\)](#)],[[FTA C 4220.1G,VI,3.h\(1\)\(d\)](#)])

Applicability Guide: Small
and large federal- and state-
funded Goods & Services
procurements.



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For state-funded procurements, in addition to (a) through (e) above, a noncompetitive procurement is permitted if the Authority determines the sole source award is in the public interest, maximizes effectiveness, or promotes the general economic and social well-being of the MBTA service area and the Commonwealth.

Applicability Guide: Small
and large state-funded
Goods & Services
procurements.



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1.5.4.6.3. Sole Source Documentation – Goods & Services

All Goods & Services sole source procurements must have an approved, written justification in accordance with the requirements outlined in Chapter 3 Sections 3.2.20 of this Manual.



Applicability Guide: Small and large federal- and state-funded Goods & Services procurements.



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1.5.4.6.4. Sole Source Documentation – Construction Services

The Project Office/Project Manager shall take reasonable steps to avoid using sole source procurement except in circumstances where it is both necessary and in the best interest of the Authority.

In each instance where the sole source or emergency procurement method is used, the Project Office/Project Manager shall:

- (a) Prepare a written justification which demonstrates that procurement by competitive bids or competitive negotiation is not required
- (b) Ensure proper justification, documentation, and approval of the procurement are completed prior to contract award
- (c) Take action, when possible, to avoid the need to continue to procure the same service without competition

The Project Office/Project Manager shall not be required to publicize a solicitation for a procurement made on a sole source basis.

The Project Office/Project Manager shall conduct a cost analysis when adequate price competition is lacking and for sole source procurements, including contract modifications or change orders. Refer to Section 1.6.3 Cost and Price Analysis.

The Project Office/Project Manager shall ensure the sole source contract contains all required clauses, representations, and certifications.

The Project Office/Project Manager shall ensure each sole source procurement is reviewed or approved at the level in the Authority at which the action must be approved.



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- (a) The Project Office/Project Manager shall sign the D&F,
- (b) The Office of the General Counsel shall review for legal sufficiency and concurrence for the D&F
- (c) The D&F must be approved by the Chief of Engineering and Capital or their designee.

The Project Office/Project Manager shall ensure the documentation justifying the sole source procurement is properly documented. [\[FTA C 4220.1G,VI,3.h\]](#)

Applicability Guide: Small
and large federal- and state-
funded Construction
Services procurements.



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1.5.4.6.5. Determination and Findings Document – Construction Services

The Authority shall prepare a Determination and Finding (D&F) in the form of a Sole Source Justification or equivalent document that is approved by the Chief of Engineering and Capital or their designee to document the reasons a sole source procurement is justified in the case of a Construction Service procurement.

Each sole source D&F shall include the following:

- (a) Specific identification of the document as a sole source D&F or Sole Source Justification.
- (b) A description of the proposed procurement.
- (c) A description of the requirement, including estimated value and cost.
- (d) An explanation of the unique circumstance of the procurement or other factors that qualify the procurement for sole source award.
- (e) An explanation of the proposed vendor's unique qualifications or other factors that qualify them as a sole source for the procurement.
- (f) A list of the potential sources contacted by Procurement Office, the Project Office/Project Manager or which expressed, in writing, an interest in the procurement.



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- (g) Cost analysis. (Refer to Section 1.6.3 Cost and Price Analysis)
- (h) Any other pertinent facts or reasons supporting the use of a sole source procurement.

Refer to subsequent chapters in this Manual for specific guidance and procedures for preparing a D&F.

Applicability Guide: Small and large federal- and state-funded Construction Services procurements.



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- 1.5.4.7. A&E Professional Services
- 1.5.4.7.1. Architectural and Engineering Services (A&E)

A&E services include project delivery work done by the following:

- (a) Architects
- (b) Consultants
- (c) Engineers

Applicability: A&E Only

- 1.5.4.7.2. Qualifications Exclude Price

The Authority shall utilize qualifications-based proposal procedures [Brooks Act Procedures] when contracting for A&E services as defined in [\[40 USC §§ 1101-1104\]](#) and [\[49 U.S.C. § 5325\(b\)\(1\)\]](#) for projects related to or leading to a construction project and require architectural and engineering, but also for program management, construction management, feasibility studies, preliminary engineering, design, architectural, engineering, surveying, mapping, and related services.

When this procurement method is used, the Authority shall follow the requirements below: [\[2 CFR § 200.320\(b\)\(2\)\(iv\)\]](#), [\[FTA C 4220.1G, VI, 3.f.\(2\)\]](#)

- (a) An offeror's qualifications must be evaluated.



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- (b) Price is excluded as an evaluation factor. [[FTA C 4220.1F, VI, 2.h.\(2\)\(a\)](#)]
- (c) Design-build services must be procured through means of qualifications-based competitive proposal procedures based on the Brooks Act when the preponderance of the work to be performed is considered to be for architectural and engineering, program management, construction management, feasibility studies, preliminary engineering, design, architectural, engineering, surveying, mapping, or related A&E services. (A&E) services. [[FTA C 4220.1G, IV, 2.h\(2\)\(b\)](#)]
- (d) Qualifications-based competitive proposal procedures may not be used to procure design-build services when the preponderance of the work to be performed are services other than those listed in the previous sentence, unless required by State law. [[FTA C 4220.1G, IV, 2.h\(2\)\(a\)](#)]

Refer to Chapter 2 for Professional Services and A&E procurement procedures, samples, and templates.

Applicability: A&E Only

1.5.4.7.3. Cost Principles [Consulting Services]

The Authority shall perform a pre-audit evaluation of proposed cost for Consulting Services to establish provisional indirect cost rates and billing rates and to determine the allocate-ability, allow-ability, and reasonableness of costs.

For contracts under federal grants, costs incurred, or cost estimates included in the negotiated process must be consistent with federal cost principles.

Applicability: A&E Only

1.5.4.8. Construction Services

Construction services include project delivery work involving:

- (a) Construction Manager at Risk
- (b) Construction Manager / General Contractor



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- (c) Design-Bid-Build
- (d) Design-Build

Applicability: Construction Services Only

1.5.4.8.1. Bonding

The Authority shall require bonds for all construction contracts except to the extent FTA determines that the Federal interest is adequately protected through other arrangements.

Please refer to Chapters 3 and 4 for bonding requirements for different procurement types (i.e., Design-Build, Goods & Services).

For construction projects, bond requirements are outlined in the bid documents. In some cases, bond requirements may vary if permitted by statute.

1.5.4.8.1.1. Bid Security

The Authority shall require the following bid guarantee (bonding) from each bidder for construction projects over \$150,000:

- (a) The 'bid guarantee' shall consist of a firm commitment in the form of a bid bond, certified check or other negotiable instrument as assurance that the bidder will honor its bid upon acceptance.
- (b) The 'bid guarantee' shall be equivalent to 5 percent of the bid price [[2 CFR § 200.326](#)],[[FTA C 4220.1G,IV,2.i.\(1\)\(a\)](#)]

Applicability Guide
(Construction Only):
>\$150K federal- and
>\$50K state-funded
procurements.



>\$150K



>\$50K



1.5.4.8.1.2. Performance Security

The Authority shall require a performance bond of 100 percent of the contract price from contractor for construction projects over \$150,000. [[2 CFR § 200.326](#)],[[FTA C 4220.1G,IV,2.i.\(1\)\(b\)](#)]

Applicability Guide
(Construction Only):
>\$150K federal- and
>\$50K state-funded
procurements.



>\$150K



>\$50K

1.5.4.8.1.3. Payment Security

The Authority shall require the following payment bond based on contract price for construction projects over \$150,000:

- (a) Fifty percent of the contract price if the contract price is not more than \$1 million;
- (b) Forty percent of the contract price if the contract price is more than \$1 million but not more than \$5 million; or
- (c) Two and a half million dollars if the contract price is more than \$5 million.

[[2 CFR § 200.326](#)],[[FTA C 4220.1G,IV,2.i.\(1\)\(c\)](#)]

The Authority shall submit its policy and rationale to Region I FTA Regional Office for approval if it wishes to adopt less stringent bonding requirements, for a specific class of projects, or for a particular project.
[[2 CFR § 200.326](#)],[[FTA C 4220.1G,IV,2.i.\(1\)\(e\)](#)]

Applicability Guide
(Construction Only):
>\$150K federal- and
>\$50K state-funded
procurements.



>\$150K



>\$50K

1.5.4.8.2. Davis-Bacon



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The Authority shall follow the Davis-Bacon prevailing wage and hour restrictions for all construction contracts. [[2 CFR § 200.327](#)], [[FTA C 4220.1G,IV,2,i,5](#)], [[BPPM § 4.1](#)]

Applicability Guide
(Construction Only): federal-
funded procurements.



>\$2,000

1.5.4.9. Job Order Contracting

Job Order Contracting is only permitted with non-federal funds pursuant to MGL c. 6C s. 77. The Authority may utilize the Job Order Contracting procurement method for state-funded construction projects with a total value per project of not more than \$1,000,000.

Job Order Contracting requires a solution provider and coordination company which the Authority chooses through a Competitive RFP process. Contractors are selected for participation in the Job Order Contracting program using the Construction Services procurement method.

Applicability Guide: Construction
Services Only



<\$1,000 K

1.5.4.10. Energy Conservation Procurements

Per M.G.L. Chapter 25A Section 14, the Authority may utilize the Energy Conservation Procurements method for state-funded projects that meet all requirements of the regulation. [[M.G.L. Chapter 25A Section 14](#)]

Applicability Guide: Energy Conservation
Only



<\$300 K

1.5.4.11. Cooperative Purchasing Contracts – Rolling Stock and related equipment

Under Section 3019 of the FAST Act, the MBTA may purchase rolling stock and related equipment from a cooperative interstate



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procurement contract. A “cooperative interstate procurement contract” means a contract entered into between a State government or eligible nonprofit entities and one or more vendor(s) under which the vendor(s) agree to provide an option to purchase rolling stock and related equipment to multiple participants. The contract term for a cooperative procurement contract may be for an initial term of not more than two years and may include three optional extensions of one year each. A lead procurement agency or lead nonprofit entity in such a procurement may charge participants in the contract no more than one percent of the total value of the contract.

Interstate cooperative purchasing contracts or state schedules are subject to federal requirements, including, but not limited to, full and open competition, no geographic preference, Build America/Buy America, and bus testing, and must include all FTA required clauses and certifications with its purchase orders issued under the interstate contract.

Applicability Guide: Small and large federal- and state-funded Rolling Stock procurements.



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1.5.4.12. Unsolicited Proposals

The Authority may negotiate a sole-source award with an offeror that presents an unsolicited proposal that makes available a unique and innovative idea or approach not available from another source. The MBTA’s Innovation Proposals Policy is posted on mbta.com. [\[FTA C 4220.1G,VI,3.h\(1\)\(b\)\]](#)

Applicability Guide: Small and large Goods & Services federal- and state-funded procurements.



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1.6. AWARD, NEGOTIATION & CONTRACT

1.6.1. Overview



As part of the end-to-end sourcing process, after proposals are submitted, the award, negotiation, and contract stage begins. This section of the Manual provides the Authority's policies for this phase of the procurement. Contract award is the method used in procurement to evaluate proposals and choose the most preferable, consistent with the specifications set forth in the bid documents. Contract negotiations ensure the contract is mutually beneficial for all parties, addresses all agreed upon terms and scope, and that the new business relationships are free from conflict and confusion. The contract establishes the legally binding relationship between the Authority and the vendor that protects both entities throughout the procurement process.

1.6.2. Fair & Reasonable Price Determination

For micro-purchases and small purchases, the Authority shall review proposed procurements to determine that the price is fair and reasonable and maintain documentation of how the determination is made. [[2 CFR § 200.320\(a\)\(1\)\(ii\)](#)], [[FTA C 4220.1G,VI,3.a\(2\)\(c\)](#)], [[BPPM § 4.1](#)]

Applicability Guide: All micro and small federal- and state-funded procurements.



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1.6.3. Cost and Price Analysis

The Authority shall perform a cost or price analysis for every small or large federal procurement action and large non-federal procurement actions, including contract modifications or change orders, and provide justification that the price paid is fair and reasonable. The method and degree of analysis conducted depends on the particular procurement transaction. [[2 CFR § 200.324](#)], [[FTA C 4220.1G,VI,4.](#)]

Price Analysis

A price analysis may be used to determine the reasonableness of the proposed contract price when there are multiple bidders. [[FTA C 4220.1G,VI,4.b.](#)]

Cost Analysis



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A cost analysis examines the reasonableness of the contractor's proposed costs to deliver the contract.

- (a) The method and degree of analysis is dependent on the facts of the procurement situation. [\[2 CFR § 200.324\]](#), [\[FTA C 4220.1G,VI,4.\]](#)
- (b) Cost Analysis must be performed when the offeror is required to submit the elements (i.e., labor hours, overhead, materials, etc.) of the estimated cost. [\[2 CFR § 200.324\]](#), [\[FTA C 4220.1G,VI,4.a.\]](#)
- (c) Cost Analysis is required when adequate price competition is lacking, including sole source procurements and contract modifications or change orders, unless price reasonableness can be established based on:
 - i. a catalog or market price of a commercial product sold in substantial quantities to the public. [\[2 CFR § 200.324\]](#), [\[FTA C 4220.1G,VI,4.a.\]](#)
 - ii. prices set by law or regulation. [\[2 CFR § 200.324\]](#), [\[FTA C 4220.1G,VI,4.a.\]](#)

Applicability Guide: Large and small federal-funded procurements.



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Large state-funded procurements.



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1.6.4. Sound and Complete Agreement

For all third-party contracts, the Authority shall include provisions adequate to form a sound and complete agreement. [\[2 CFR § 200, Appendix II\]](#), [\[FTA C 4220.1G,III,3.b.\]](#)

For all third-party contracts exceeding the simplified acquisition threshold (or large procurements), the Authority shall include administrative, contractual, or legal remedies for violations or breach of the contract. [\[2 CFR § 200, Appendix II\]](#), [\[FTA C 4220.1G,IV,2.b.9\(a\)\]](#)

For contracts exceeding \$10,000, the Authority shall include termination for cause and termination for convenience provisions. [\[2 CFR § 200, Appendix II\]](#), [\[FTA C 4220.1G,IV,2.b.9\(b\)\]](#)

Applicability Guide: All federal-funded procurements.



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1.6.5. Contract Term Limitation (state-funded)

The Authority shall ensure the duration of contracts are reasonable and generally should not exceed the time necessary to accomplish the purpose of the contract.

State-funded procurement durations should be tailored to meet the needs of the business in a cost-effective and reasonable manner. Specific considerations may include, but are not limited to, frequency of changes in technology or product availability, depth of competition available to provide the product/service, start-up, customization and or implementation costs and change management needs associated with large scale procurements.

Applicability Guide: Small and large state-funded procurements.



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1.6.6. Contract Term Limitation (federal-funded)

For federal-funded contracts, the Authority shall have an anticipated need that aligns with the quantities to be procured or the performance period, including option periods, designated for each contract.

The Authority shall consider whether contract time extensions are permissible changes or impermissible cardinal changes. An extension to the contract term length may require justification.

For multi-year contracts to purchase rolling stock and replacement parts, the Authority shall

- (a) Not have options that extend more than five years (bus) or seven years (railcar) after the date of the original contract.
- (b) Ensure the contract does not encompass more rolling stock and replacement parts than the recipient needs within five years (bus) or seven years (railcar)

The five- or seven-year rule does not mean delivery, acceptance, or even fabrication must be completed in five or seven years – only that a contract is limited to purchasing no more than the recipient's rolling stock or



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replacement parts needs for five or seven years based on the effective date of the contract.

[\[49 U.S.C. § 5325\(e\)\(1\)\]](#), [\[FTA C 4220.1G,IV,2.b.\(3\)\]](#)

Applicability Guide: Small and large federal-funded procurements.



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1.6.7. Out of Scope Changes

The Authority shall require a sole source justification for any contract changes that are out of scope of the original contract. [\[FTA C 4220.1G,VI,3.i.\(1\)\]](#)

Applicability Guide: Small and large federal- and state-funded procurements.



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1.6.8. Evaluation of Options

The Authority may include options in contracts to assure the future availability of property or services. [\[FTA C 4220.1G,IV,1.d.\]](#)

The Authority shall evaluate offers for any option quantities or periods contained in a solicitation that it reasonably expects to exercise. [\[FTA C 4220.1G,VI,5.b.\]](#)

When options have not been evaluated as part of the award, the exercise of such options will be considered a sole source procurement.

Applicability Guide: Small and large federal-funded procurements.



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1.6.9. Exercise of Options

The Authority shall ensure that options exercised are done so in accordance with the terms and conditions of the option stated in the initial contract awarded.



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The Authority shall determine that the option price is better than the market price or that the option is the more advantageous offer at the time the option is exercised. [[FTA C 4220.1G,V,8.c.\(1\)](#)]

Applicability Guide: Small and large federal- and state-funded procurements.



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1.6.10. Advance Payments

The Authority shall not participate in funding payments to a contractor prior to the incurrence of costs by the contractor unless prior written approval is obtained from FTA.

There is no prohibition on the Authority's use of non-federal funds for advance payments. However, advance payments made with local funds before a grant has been awarded, or before the issuance of a letter of no prejudice or other pre-award authority, are ineligible for reimbursement. Additionally, consideration should be given to whether advance payments are required or customary for the specific product or service.

Exceptions to the Prior Approval Requirement – The FTA requirement for prior approval of advance payments does not apply to transactions where it is “generally accepted industry practice” to pay in advance. In these situations, the Authority may make advance payments without prior FTA approval, provided that the advance payment does not exceed \$100,000. These situations would include (but are not restricted to) the following types of transactions:

- Rent
- Tuition
- Insurance premiums
- Subscriptions to publications
- Software licenses
- Construction mobilization costs
- Public utility connections

[[FTA C 4220.1G,IV,2.b.\(5\)\(a\)](#)]

Applicability Guide: All federal-funded procurements.



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1.6.11. Progress Payments

The Authority may use progress payments provided the payments are:

- (a) Only made to the contractor for costs incurred in the performance of the contract.
- (b) Adequate security for progress payments has been made. Adequate security may include taking title, letter of credit or equivalent means to protect the Authority's interest in the progress payment.

The Authority may use progress payments based on percentage completion for Federal funded construction contracts.

The Authority may not use the percentage of completion method for non-construction contracts. For those contracts, progress payments based on costs incurred must be used.

[\[FTA C 4220.1G,IV,2.b.\(5\)\(b\)\]](#)

The Authority shall refer to [\[FAR 52.232-16\]](#) for guidance to address common issues in the progress payments clause, including:

- Computation of amounts – percentage of total costs, definition of costs to be included in the calculation.
- Liquidation – the method of linking value received to payments made.
- Reduction or suspension of payments – the circumstances under which the grantee may reduce or suspend progress payments.
- Title – this provision defines the property considered allocable to the contract (parts, materials, special tooling, special test equipment, drawings and technical data, etc.) and the party that retains title to the property or work-in-process for which the progress payments are made.
- Risk of loss – the contract should be clear as to which party assumes the risk of loss to contract property and work-in-progress before final acceptance of the units. In the Federal clause, the contractor assumes the risk of loss even though title to all property acquired under the contract vests in the Government.
- Progress payments to subcontractors – this provision defines the circumstances under which the prime contractor must make progress payments to fixed-price subcontractors, and the subcontract terms to



be included (covering the same issues as the prime contract's progress payment clause).

- Adequate accounting system/reports – the contract must require an adequate job-order accounting system to be maintained that properly accounts for the costs of the job even though the contract is fixed-price. This provision should also give the grantee the right to require certain reports or other data in support of the contractor's invoices.
- Access to records - this provision must give the grantee the right to conduct audits of costs claimed in progress payment invoices.

Applicability Guide: Large and Small
federal-funded procurements.



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1.6.12. Time and Materials Contract

The Authority may use Time-and-Material (T&M) contracts for acquiring supplies or services. These contracts provide for the payment of labor costs based on fixed hourly billing rates that are specified in the contract and include wages, indirect costs, general and administrative expense, and profit. T&M contracts also operate as cost-type contracts where materials are billed at cost. The contracts also provide for the reimbursement of indirect material handling costs.

The Authority shall use time and materials contracts only:

- After a determination that no other type of contract is suitable.
- If the contract specifies a ceiling price that the contractor shall not exceed except at its own risk.

The Authority shall specify the maximum financial obligation (ceiling price) in the contract. The contractor may not exceed this funding limitation without a written authorization in the form of a contract modification adding more funds.

The Authority shall provide oversight during performance of a T&M contract to provide reasonable assurance that efficient methods and cost controls are used by the contractor.

[\[2 CFR § 200.318\(j\)\]](#), [\[FTA C 4220.1G, VI, 2.g.\(2\)\(3\)\]](#), [\[BPPM § 2.4.3.3\]](#)



Applicability Guide: Small and large federal-funded procurements.



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1.6.13. Cost Plus Percentage of Cost (CPPC)

The Authority shall not use CPPC contracts and shall also insert clauses in their cost-type contracts that prohibit prime contractors from using CPPC subcontracts. CPPC contracts are prohibited by statute and FTA may not grant waivers for grantees to use this method of contracting.

[\[2 CFR § 200.324\(c\)\]](#), [[\[FTA C 4220.1G,VI,2.g.\(2\)\(1\)\]](#)

Applicability Guide: All federal-funded procurements.



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1.6.14. Liquidated Damages Provisions

Liquidated damages provisions may be used if the Authority reasonably expects to suffer damages through delayed contract completion and the extent or amount of such damages would be difficult or impossible to determine. The rate and measurement period must be specified in the third-party contract and may not be excessive. [\[FTA C 4220.1G,IV,2.b.\(9\)\(d\)\]](#)

Applicability Guide: Small and large state- and federal-funded procurements.



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1.6.15. Piggybacking

The Authority may assign its contractual rights to purchase property, equipment, and services to other recipients if the original contract contains an appropriate assignability clause that provides for the assignment of all or a portion of the specified deliverables as originally advertised, competed, evaluated, and awarded, or other appropriate assignment provisions. Some refer to this process as “piggybacking.”

(a) If supplies or services were solicited, competed, and awarded through the use of an indefinite-delivery-indefinite-quantity (IDIQ) contract, then both the solicitation and contract award must contain both a minimum and



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maximum quantity that represent the reasonably foreseeable needs of the party(s) to the solicitation and contract. [[FTA C 4220.1G,V,8.a.](#)]

(b) An FTA recipient that obtains contractual rights through assignment may exercise them after first determining the contract price remains fair and reasonable, and all Federal requirements have been addressed in the contract's clauses. The recipient is not required to perform a second price analysis if a price analysis was originally performed. However, the recipient must determine whether the contract price or prices originally established are still fair and reasonable. [[FTA C 4220.1G,V,8.c.\(1\)](#)]

(c) The recipient is responsible for Build America Buy America compliance with the transaction and assuring that they execute all of the required pre-award and post-delivery Build America Buy America audit certifications. [[FTA C 4220.1G,V,8.c.\(2\)](#)] [[BPPM Appendix B.16](#)]

Applicability Guide (Goods & Services):
Small and large federal- and state-funded procurements.



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Applicability Guide (Construction): Small
and large federal-funded procurements.



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1.6.16. Serial Price Negotiations

When conducting serial price negotiations for A&E procurements, the Authority shall

- (a) Conduct negotiations with the 'Most Qualified' and "Next Most Qualified' offerors.
- (b) Conduct negotiations with the next most qualified offeror, when failing agreement on price and, if necessary, negotiations with successive offerors in descending order until a contract award can be made to the offeror whose price the Authority believes is fair and reasonable.

[[2 CFR § 200.320\(b\)\(2\)\(iv\)](#)], [[FTA C 4220.1G,VI,3.f.\(2\)](#)], [[40 USC §§ 1101-1104](#)], [[49 U.S.C. § 5325\(b\)](#)]

Applicability Guide: A&E Only



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1.6.17. Contract Clauses

The Authority shall fulfill all applicable Federal requirements for clauses before FTA assistance may be used to support an acquisition of property or services. [\[2 CFR § 200.327\]](#), [\[2 CFR § 200, Appendix II\]](#), [\[FTA C 4220.1G,IV,2.\]](#)

[Instructions for federal required clauses and contractor certifications for various dollar values and types of procurements, including suggested clause language, are found in the FTA Best Practice Procurement Manual [\[BPPM Appendix A.1\]](#).

Applicability Guide: All federal-funded procurements.



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1.6.18. Revenue Contracts

The Authority shall enter into third-party revenue contracts whose primary purpose is to either generate revenues in connection with a transit-related activity or to create business opportunities utilizing an FTA-funded asset.

The requirement for competitive selection procedures applies to all business opportunities including all revenue generating contracts.

[\[FTA C 4220.1G,II,2.b.\(3\)\]](#)

Applicability Guide (Goods & Services Only): Small and large federal- and state-funded procurements.



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1.7. MANAGE SUPPLIER PERFORMANCE / CONTRACT ADMINISTRATION

1.7.1. Overview

Managing supplier performance and effective contract administration ensures contractors and suppliers perform duties and obligations in accordance with the terms of the contract, deliver quality and service



levels, and meet milestones. It also provides a conduit for collaboration and to identify and address any developing problems or issues.

Contract management activities will vary depending on the nature and scope and complexity of services or goods provided.

1.7.2. Contract Administration System

The Authority shall maintain oversight to ensure that its contractors comply with the terms, conditions, and specifications of their contracts or purchase orders and applicable Federal, State, and local responsibilities. [\[2 CFR § 200.318\(b\)\]](#),[\[FTA C 4220.1G,III,3.\]](#)

The Authority shall utilize this Manual, departmental standard operating procedures, the Financial Management Information System (FMIS), and associated reporting tools for contract administration, reporting and monitoring.

As part of its contract administration processes, the Authority shall be responsible for settlement of all contractual and administrative issues including source evaluation, protests, disputes, and claims. Violations of law must be reported to the appropriate Federal, State, or local authority with proper jurisdiction. [\[2 CFR § 200.318\(k\)\]](#)

Applicability Guide: All federal- and state-funded procurements.



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1.7.3. Written Record of Procurement History

The Authority shall maintain records detailing the history of the procurement. As a minimum, these records shall include the rationale for the method of procurement, the selection of the contract type, contractor selection or rejection, and the basis for the contract price. [\[2 CFR § 200.318\(i\)\]](#),[\[FTA C 4220.1G,III,3.d\(1\)\]](#)



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Records will vary based on the nature of the procurement. Records may be retained in the Authority's financial system or a secure electronic repository. Where possible, paper records are to be avoided.

Where appropriate, the procurement documentation file should contain:

- (a) Purchase request, acquisition planning information, and other pre-solicitation documents;
- (b) Evidence of availability of funds;
- (c) Rationale for the method of procurement (negotiations, formal advertising);
- (d) List of sources solicited; (vendor/bidder's list)
- (e) Independent cost estimate;
- (f) Statement of work/scope of services;
- (g) Copies of published notices of proposed contract action;
- (h) Copy of the solicitation, all addenda, and all amendments;
- (i) Liquidated damages determination;
- (j) Contractor's contingent fee representation and other certifications and representations;
- (k) Source selection documentation, including evaluation metrics and scores;
- (l) Contracting Officer's determination of contractor responsiveness and responsibility;
- (m) Cost or pricing data, including bidder clarifications and BAFO responses;
- (n) Determination that price is fair and reasonable including an analysis of the cost and price data, required internal approvals for award;
- (o) Notice of award;
- (p) Notice to unsuccessful bidders or offerors and record of any debriefing;
- (q) Record of any protest;
- (r) Bid, Performance, Payment, or other bond documents, and notices to sureties;
- (s) Required insurance documents, if any; and
- (t) Notice to proceed.



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For Goods and Services procurements, additional guidance on records retention is found in Chapter 3 Section 3.5.

For Construction Services, the Project Office/Project Manager shall maintain its own contract files. The documentation required will differ depending on the type of procurement. The Project Office/Project Manager should work with MBTA Procurement to determine what shall be kept in the contract file. In addition to the selection documentation, the contract file shall contain (as applicable by procurement method):

- (a) The executed contract
- (b) Performance and payment bonds, bond-related documentation, and correspondence with any sureties
- (c) Contract-required insurance documentation
- (d) Post-award (pre-performance) correspondence from or to the consultant or other government agencies
- (e) Approvals or disapprovals of contract submittals required by the contract and requests for waivers or deviations from contractual requirements.
- (f) Modifications/changes to the contract including the rationale for the change, change orders/amendments issued, and documentation reflecting any time and or increases to or decreases from the contract price as a result of those modifications;
- (g) 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;
- (h) Documentation regarding stop work and suspension of work orders and termination actions (convenience as well as default); and
- (i) Documentation relating to contract close-out

Refer to chapters of this Manual for specific information and checklists.



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Applicability Guide: Small and Large
federal- and state-funded
procurements.



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1.8. ASSISTANCE, GUIDANCE, AND GOVERNING DOCUMENTS

1.8.1. Non-Federal

MBTA WEBSITE

The MBTA website www.mbta.com is a good resource for procurement, organizational, and project information.

MGL Ch. 161A

Massachusetts General Law (MGL) Chapter 161A covers MBTA powers of authority granted by law. MGL Chapter 161A is available online at: <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXXII/Chapter161A>

MGL Ch. 30 § 39M

Massachusetts General Law (MGL) Chapter 30 §39 covers construction contracts. MGL Chapter 30 §39 is available online at: <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleIII/Chapter30/Section39M>

1.8.2. Federal

2 CFR 200

Uniform Guidance (2 C.F.R. Part 200): 2 C.F.R Part 200 establishes uniform administrative requirements, cost principles, and audit requirements for Federal awards to non-Federal entities. The eCFR website is available online at: <https://www.ecfr.gov/current/title-2 subtitle-A/chapter-II/part-200>

FTA WEBSITE

The FTA website www.fta.dot.gov contains procurement news and links to important FTA documents, such as Circulars, Dear Colleague Letters, Best Practices Procurement Manual, etc.

FTA CIRCULAR 4220.1G



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This Circular sets forth the requirements the Authority must adhere to in the solicitation, award and administration of its federal funded third party contracts. The *Circular* is available online at:

<https://www.transit.dot.gov/sites/fta.dot.gov/files/2025-01/Third-Party-Contracting-Guidance-%28Circular-4220.1G%29.pdf>

BEST PRACTICES PROCUREMENT MANUAL (BPPM)

This Manual provides recipients of Federal Transit Administration (FTA) funds suggestions on conducting third party procurements to assist them in meeting the standards of FTA Circular 4220.1G. The Manual consists of required and suggested procedures, methods, and examples.

<https://www.transit.dot.gov/funding/procurement/third-party-procurement/best-practices-procurement-manual>

FEDERAL ACQUISITION REGULATIONS

The Federal Acquisition Regulation is available at the following internet address: <https://www.acquisition.gov/> . MBTA follows FAR Part 31 Cost Principles.

FTA DEAR COLLEAGUE LETTERS

The FTA Administrator periodically issues *Dear Colleague Letters* to the FTA grantee community. These letters may introduce new FTA requirements or clarifying earlier FTA policy statements. Dear Colleague letters are available at <https://www.transit.dot.gov/regulations-and-guidance/policy-letters/administrator-dear-colleague-letters>

FTA PROCUREMENT SYSTEM REVIEW (PSR)

FTA conducts periodic reviews of its grantee's procurement systems. These reviews are conducted in accordance with the *Guide for Procurement System Reviews* which FTA has developed to evaluate compliance with the requirements of 2 CFR 200.318 – 327 and the FTA Circular 4220. A self-assessment *Guide* is available on the Internet at the following FTA web site address: www.transit.dot.gov/funding/procurement-system-self-assessment-guide

FTA PROCUREMENT RESOURCES

The FTA maintains a Procurement-focused website that re-directs to a number of useful resources and provides a contact point for further



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questions. It can be found here:

<https://www.transit.dot.gov/funding/procurement/procurement>

The FTA also maintains a *Frequently Asked Questions* site here:

<https://www.transit.dot.gov/funding/procurement/third-party-procurement/third-party-procurement-faqs>

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	Federal Funded
	State / Non-Federal Funded
\$	Micro: <\$10K
\$\$	Small (Goods & Services): \$10K - <\$200K
\$\$\$	Small (Design & Construction): \$10K - <\$200K
BLANK	Large (Goods & Services): >\$200K
	Large (Design & Construction): >\$200K
	Does Not Apply

 Massachusetts Bay Transportation Authority		APPENDIX: APPLICABILITY GUIDE (1 of 3) (Consult First)						
Ref.	Policy Element	Method	Goods & Services		Construction		A&E (Design)	
1.3.2	Most Efficient and Economic Purchase	ALL	\$ / \$\$\$ / \$\$\$	\$ / \$\$\$ / \$\$\$	\$ / \$\$\$ / \$\$\$	\$ / \$\$\$ / \$\$\$	\$ / \$\$\$ / \$\$\$	\$ / \$\$\$ / \$\$\$
1.3.3	Excess and Surplus Property	ALL	\$\$ / \$\$\$	\$\$ / \$\$\$	\$\$ / \$\$\$	\$ / \$\$		
1.3.4	Domestic Preference	ALL	\$ / \$\$\$ / \$\$\$		\$ / \$\$\$ / \$\$\$			
1.3.5	Recovered Materials	ALL	\$\$ / \$\$\$		\$\$ / \$\$\$			
1.3.6	Objective Specifications	ALL	\$ / \$\$\$ / \$\$\$	\$ / \$\$\$ / \$\$\$	\$ / \$\$\$ / \$\$\$	\$ / \$\$\$ / \$\$\$	\$ / \$\$\$ / \$\$\$	\$ / \$\$\$ / \$\$\$
1.3.7	Full and Open Competition	ALL	\$ / \$\$\$ / \$\$\$	\$ / \$\$\$ / \$\$\$	\$ / \$\$\$ / \$\$\$	\$ / \$\$\$ / \$\$\$	\$ / \$\$\$ / \$\$\$	\$ / \$\$\$ / \$\$\$
1.3.8	Organizational Conflict of Interest	ALL	\$ / \$\$\$ / \$\$\$	\$ / \$\$\$ / \$\$\$	\$ / \$\$\$ / \$\$\$	\$ / \$\$\$ / \$\$\$	\$ / \$\$\$ / \$\$\$	\$ / \$\$\$ / \$\$\$
1.3.9	Brand Name Restrictions	ALL	\$\$ / \$\$\$		\$\$ / \$\$\$			
1.3.10	Clear, Accurate, and Complete Specification	ALL	\$\$ / \$\$\$	\$\$ / \$\$\$	\$\$ / \$\$\$	\$\$ / \$\$\$	\$\$ / \$\$\$	\$\$ / \$\$\$
1.3.11	Independent Cost Estimate	ALL	\$\$\$		\$\$\$		\$\$\$	
1.4.2	Prequalification System	ALL	\$\$ / \$\$\$	\$\$ / \$\$\$	\$\$ / \$\$\$	\$\$ / \$\$\$	\$\$ / \$\$\$	\$\$ / \$\$\$
1.4.3	Broad Solicitation	ALL	\$\$ / \$\$\$	\$\$ / \$\$\$	\$\$ / \$\$\$	\$\$ / \$\$\$	\$\$ / \$\$\$	\$\$ / \$\$\$
1.4.4	Disadvantaged Business Enterprise (DBE)	ALL	\$\$\$	\$\$\$	\$\$\$	\$\$\$	\$\$\$	\$\$\$
1.4.5	Preclusion	ALL	\$\$ / \$\$\$	\$\$ / \$\$\$	\$\$ / \$\$\$	\$\$ / \$\$\$	\$\$ / \$\$\$	\$\$ / \$\$\$
1.5.2	General Requirements of all state- and federal-funded solicitations	ALL	\$ / \$\$\$ / \$\$\$	\$ / \$\$\$ / \$\$\$	\$ / \$\$\$ / \$\$\$	\$ / \$\$\$ / \$\$\$	\$ / \$\$\$ / \$\$\$	\$ / \$\$\$ / \$\$\$
1.5.3	General Requirements of all federal-funded solicitations	ALL	\$ / \$\$\$ / \$\$\$		\$ / \$\$\$ / \$\$\$		\$ / \$\$\$ / \$\$\$	
1.5.4.1	Micro-Purchase	Micro-Purchase	\$	\$	\$	\$	\$	\$



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APPENDIX: APPLICABILITY GUIDE (2 of 3)

(Consult First)

Ref.	Policy Element	Method	Goods & Services		Construction		A&E (Design)	
1.5.4.2	State Contract or Consortium	ALL		\$ / \$\$ / \$\$\$		\$ / \$\$ / \$\$\$		
1.5.4.3	Small Purchase or Simplified Acquisition	Small Purchase	\$\$	\$\$				
1.5.4.4	Sealed Bid	Sealed Bid	\$\$\$	\$\$\$				
1.5.4.5	Competitive RFP or Proposal	RFP	\$\$\$	\$\$\$				
1.5.4.6.1	Sole Source or Noncompetitive Procurement	Sole Source	\$\$ / \$\$\$	\$\$ / \$\$\$	\$\$ / \$\$\$	\$\$ / \$\$\$		
1.5.4.6.2	Sole Source if Other Award is Infeasible	Sole Source	\$\$ / \$\$\$	\$\$ / \$\$\$				
1.5.4.6.3	Sole Source Documentation – Goods & Services	Sole Source	\$\$ / \$\$\$	\$\$ / \$\$\$				
1.5.4.6.4	Sole Source Documentation – Construction Services	Sole Source			\$\$ / \$\$\$	\$\$ / \$\$\$		
1.5.4.6.5	Determination and Findings Document	Sole Source			\$\$ / \$\$\$	\$\$ / \$\$\$		
1.5.4.7	A&E Professional Services	A&E					\$ / \$\$ / \$\$\$	\$ / \$\$ / \$\$\$
1.5.4.8	Construction Services	Construction			\$\$ / \$\$\$	\$\$ / \$\$\$		
1.5.4.8.1.1	Bid Security	Construction			>\$150K	>\$50K		
1.5.4.8.1.2	Performance Security	Construction			>\$150K	>\$50K		
1.5.4.8.1.3	Payment Security	Construction			>\$150K	>\$50K		
1.5.4.8.2	Davis-Bacon	Construction			>\$2K			
1.5.4.9	Job Order Contracting	Construction				< \$1 million		
1.5.4.10	Energy Conservation Procurements	Goods & Services Construction		< \$300K			< \$300K	
1.5.4.11	Cooperative Purchasing Contracts	Rolling Stock and Related	\$\$\$	\$\$\$				
1.5.4.12	Unsolicited Proposals	ALL	\$\$ / \$\$\$	\$\$ / \$\$\$	\$\$ / \$\$\$	\$\$ / \$\$\$		
1.6.2	Fair & Reasonable Price Determination	ALL	\$ / \$\$	\$ / \$\$	\$ / \$\$	\$ / \$\$	\$ / \$\$	\$ / \$\$
1.6.3	Cost and Price Analysis	ALL	\$\$ / \$\$\$	\$\$\$	\$\$ / \$\$\$	\$\$\$	\$\$ / \$\$\$	\$\$\$
1.6.4	Sound and Complete Agreement	ALL	\$ / \$\$ / \$\$\$		\$ / \$\$ / \$\$\$		\$ / \$\$ / \$\$\$	
1.6.5	Contract Term Limitation (state-funded)	ALL		\$\$ / \$\$\$		\$\$ / \$\$\$		\$\$ / \$\$\$



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APPENDIX: APPLICABILITY GUIDE (3 of 3) (Consult First)						
Ref.	Policy Element	Method	Goods & Services	Construction	A&E (Design)	
1.6.6	Contract Term Limitation (federal-funded)	ALL	\$\$ / \$\$\$		\$\$ / \$\$\$	
1.6.7	Out of Scope Changes	ALL	\$\$ / \$\$\$	\$\$ / \$\$\$	\$\$ / \$\$\$	\$\$ / \$\$\$
1.6.8	Evaluation of Options	ALL	\$\$ / \$\$\$		\$\$ / \$\$\$	\$\$ / \$\$\$
1.6.9	Exercise of Options	ALL	\$\$ / \$\$\$	\$\$ / \$\$\$	\$\$ / \$\$\$	\$\$ / \$\$\$
1.6.10	Advance Payments	ALL	\$ / \$\$ / \$\$\$		\$ / \$\$ / \$\$\$	
1.6.11	Progress Payments	ALL	\$\$ / \$\$\$		\$\$ / \$\$\$	
1.6.12	Time and Materials Contracts	ALL	\$\$ / \$\$\$		\$\$ / \$\$\$	
1.6.13	Cost Plus Percentage of Cost (CPPC)	ALL	\$ / \$\$ / \$\$\$		\$ / \$\$ / \$\$\$	
1.6.14	Liquidated Damages Provisions	ALL	\$\$ / \$\$\$	\$\$ / \$\$\$	\$\$ / \$\$\$	\$\$ / \$\$\$
1.6.15	Piggybacking	ALL	\$\$ / \$\$\$	\$\$ / \$\$\$		
1.6.16	Serial Price Negotiations	A&E				\$ / \$\$ / \$\$\$
1.6.17	Contract Clauses	ALL	\$ / \$\$ / \$\$\$		\$ / \$\$ / \$\$\$	
1.6.18	Revenue Contracts	Revenue Contracts	\$\$ / \$\$\$	\$\$ / \$\$\$		
1.7.2	Contract Administration System	ALL	\$ / \$\$ / \$\$\$	\$ / \$\$ / \$\$\$	\$ / \$\$ / \$\$\$	\$ / \$\$ / \$\$\$
1.7.3	Written Record of Procurement History	ALL	\$\$ / \$\$\$	\$\$ / \$\$\$	\$\$ / \$\$\$	\$\$ / \$\$\$



APPENDIX: ACRONYMS AND DEFINITIONS

ACRONYMS:

CFR	Code of Federal Regulations
CPPC	Cost Plus Percentage of Cost
D&F	Determination & Finding
FTA	Federal Transit Administration
FMIS	Financial Management Information System
IFB	Invitation for Bid
RFP	Request for Proposal

DEFINITIONS:

Advance Payments refers to the part of a contractually due sum that is paid or received in advance for goods or services.

Award refers to the decision to enter into a Contract with the Supplier for supply and delivery of the specified Goods and/or Services.

Best Value describes a competitive procurement process in which the recipient reserves the right to select the most advantageous offer by evaluating and comparing factors in addition to cost or price such that a recipient may acquire technical superiority even if it must pay a premium price.

Bid refers to a proposal and price to provide goods and services.

Bidding process is a method to select the most suitable service provider or supplier, by comparing proposals against specific criteria. The bidding process provides a thorough way of evaluating a proposer's competencies before a contract is awarded and is essential for organizations who want to work with the public sector.

Bid Security / Guarantee refers a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid to ensure that the bidder will honor its bid upon acceptance.

Bonding refers to the process of requiring a bid bond, performance bond, or payment bond.

Brand Name refers to the name of a product or service that is limited to that produced or controlled by one private entity or by a closed group of private entities. Brand names may include trademarks, manufacturer names, or model names or numbers that are associated with only one manufacturer.



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Contract refers to a legal instrument by which a recipient or subrecipient purchases goods or services. A contract is a mutually binding legal relationship obligating the seller to furnish the goods or services (including construction) and receive payment for them. It includes all types of commitments that obligate the recipient to expenditure and that, except as otherwise authorized, are in writing.

Contract Administration refers to the post-award administration of the contract to ensure compliance with the terms of the contract by both the contractor and the procuring entity. It encompasses all dealings between the recipient and the contractor from the time the contract is awarded until the work has been completed and accepted or the contract terminated, payment has been made, and disputes have been resolved.

Contract Administrator is the MBTA employee responsible for ensuring the supplier fulfills all obligations of the Contract.

Contract Clause refers to a clause in a section in a legally enforceable contract that contains terms and conditions and important provisions of the legal agreement.

Contract Term refers to the specified time of an established contract wherein all contractual requirements are met.

Contractor refers to an entity that receives a contract.

Cost Analysis refers to the process that entails the review and evaluation of the separate cost elements and the proposed profit of an offeror's cost or pricing data.

Davis-Bacon refers to the Davis-Bacon and Related Acts (DBRA) which require payment of local prevailing wages to construction workers performing work on federal funded construction projects. The Davis-Bacon Act (DBA) applies to each federal government or District of Columbia contract in excess of \$2,000 for the construction, alteration, or repair (including painting and decorating) of public buildings or public works and requires that contractors and subcontractors pay their laborers and mechanics employed under such contracts no less than the locally prevailing wages and fringe benefits for corresponding work on similar projects in the area.

Determination & Finding refers to a special form of written approval by an authorized official that is required by statute or regulation as a prerequisite to taking certain contract actions.

Independent Cost Estimate (ICE) refers to an independent assessment of what one would expect to pay for goods or services, based on a reliable source such as paid historical prices, industry standard, or market survey. If any outside party assists in developing the ICE, appropriate steps must be taken to ensure that organizational conflicts of interest are avoided and that the outside party does not obtain any competitive advantage from advance knowledge of the estimate.

Firm Fixed Price refers to a contract provision for a price that is not subject to any adjustment on the basis of the contractor's cost experience in performing the contract. This contract type places upon the contractor maximum risk and full responsibility for all costs and resulting profit or loss.

Liquidated Damages refers to a provision that is a remedy a recipient may use if the recipient reasonably expects to suffer damages through delayed contract completion, or if weight requirements are exceeded, and the extent or amount of such damages are uncertain and would be difficult or impossible to determine. Liquidated damages are established by the MBTA prior to the issuance of the solicitation.



These damages, often expressed as a daily amount to be assessed against the contractor for each day of delay beyond the contract completion date, must be a reasonable forecast of the damages the MBTA will incur for each day of delay.

Micro-purchase refers to a purchase of supplies or services, the aggregate amount of which does not exceed the micro-purchase threshold.

Micro-purchase threshold refers to the dollar amount at or below which a non-Federal entity may purchase property or services using micro-purchase procedures (see [§ 200.320](#)). Generally, the micro-purchase threshold for procurement activities administered under Federal awards is not to exceed the amount set by the FAR at [48 CFR part 2, subpart 2.1](#),

Payment Bond refers to a bond issued by a bank or other financial institution, guaranteeing the Contractor will pay subcontractors and suppliers.

Performance Metrics refers to a procurement metric such as a key performance indicator (KPI) that is a measurable value that tracks all relevant aspects of obtaining or buying goods and services. These KPI's enable the procurement department to control and optimize the quantity, quality, costs, timing, and sourcing of purchasing processes.

Performance Bond refers to a bond issued by a bank or other financial institution, guaranteeing the fulfillment of a particular contract.

Piggybacking refers to the use of another entity's existing contract to acquire commodities or services.

Price Analysis refers to the process of evaluating a prospective price without regard to the contractor's separate cost elements and proposed profit. It is the process of deciding if the asking price for a product or service is fair and reasonable, without examining the specific cost and profit calculations the vendor used in arriving at the price. It is basically a process of comparing the price with known indicators of reasonableness.

Project Manager refers to the person in overall charge of the planning and execution of a particular project. A Project Manager is responsible for the planning, procurement, execution and completion of a Project. The Project Manager is in charge of the entire project and handles everything involved, such as the project scope, managing the project team as well as the resources assigned to the Project.

Progress Payments refers to a partial payment approach identified in a contract related to steps or phases toward the completion of the contract for goods and/or services. Use of this payment approach can require withholding of a percentage of payment pending completion of the entire contract.

Revenue Contract refers to a contract in which the recipient or subrecipient provides access to public transportation assets for the primary purpose of either producing revenues in connection with a public transportation related activity, or creating business opportunities involving the use of FTA assisted property.

Rolling Stock refers to transit vehicles such as buses, vans, cars, railcars, locomotives, trolley cars and buses, and ferry boats, as well as vehicles used for support services.



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Sealed Bid refers to a bid that is publicly solicited and a firm-fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price.

Serial Price Negotiation refers to a negotiation process that is sequential, on-going, consecutive, alternating, or repetitive and describes how the source selection will be organized, how proposals will be evaluated and analyzed, and how source(s) will be selected.

Simplified Acquisition Threshold refers to the dollar amount below which a non-Federal entity may purchase property or services using small purchase methods (see [§ 200.320](#)). Non-Federal entities adopt small purchase procedures to expedite the purchase of items at or below the simplified acquisition threshold. The simplified acquisition threshold for procurement activities administered under Federal awards is set by the FAR at [48 CFR part 2, subpart 2.1](#). The non-Federal entity is responsible for determining an appropriate simplified acquisition threshold based on internal controls, an evaluation of risk, and its documented procurement procedures.

Sole Source refers to a circumstance when goods or services, because of unique characteristics or other reasons, are only available from a single source. Sole source justifications are reviewed and approved by Procurement prior to an order being placed. When an alternate supplier for a product or service cannot be identified, to the best of the requester's knowledge, based upon thorough research, a sole source justification must be provided. The sole source justification should document the good faith effort made in searching for other suppliers, include a list of the unique technical specifications required of the product, and the companies that were contacted in the search for alternate sources.

Solicitation refers to the goods and services to be acquired where a bid is the proposal and price to provide those goods and services.

Sourcing refers to the process of vetting, selecting, and managing suppliers who can provide products or services outside of your company.

Sourcing Strategy refers to the collective set of procurement processes adopted when sourcing products or services. The process begins with analyzing the product or service requirement and developing a sourcing strategy.

Small Purchase refers to a procurement with a value greater than the established micro-purchase threshold and lower than the established simplified acquisition threshold.

Specification refers to a precise description of the physical or functional characteristics of a product, goods, construction item, or service. It is a description of what the purchaser seeks to buy and what a bidder must be responsive to in order to be considered for an award of a contract. Procurement requires that specifications for both goods and services be defined in a scope of work (SOW).

Supplier Qualification means the process by which a purchasing organization will choose the correct supplier/third-party which focus on a potential supplier's knowledge, experience, reputation, and customer satisfaction. A Request for Qualification (RFQ) contains background information and context about the need or problem to be solved and questions for vendors to answer.

The Authority refers to the Massachusetts Bay Transportation Authority

The Manual refers to Procurement & Logistics Policies and Procedures



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Time and Materials Contract refers to a legally binding document where there is an agreement to pay a contractor for the costs of all materials needed to finish a job as well as a predetermined and fixed hourly wage that include wages, overhead, general, and administrative expenses, and profit for the work performed.

Written Protest refers to a written objection by an interested party to a solicitation or other request by an agency for offers for a contract for the procurement of property or services, the cancellation of the solicitation or other request, or an award or proposed award of the contract. The protest procedures that apply to MBTA procurements are posted on MBTA.com.