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PROCUREMENT POLICY AND PROCEDURES MANUAL

Public Building Authority

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Table of Contents

1. Introduction. 5
1.1. Updating the Procurement Manual 5
1.2. E-Procurement 6
1.3. Purpose 6
1.4. Procurement Manual Compliance 7
1.5. Functions and Responsibilities 8
1.5.1. PBA Procurement Manager 8
1.5.2. Requisitioning Departments 8
2. Ethics 9
2.1. Ethics and Conflicts of Interest – Generally 9
2.2. Responses by PBA Employees 9
2.3. Gratuities 9
2.4. Supplier Samples 9
2.5. Product Endorsements 10
2.6. Contemporaneous Employment 10
3. Definitions 10
4. Competitive Bidding and Specifications 10
4.1. Procurement Methods – Generally 11
4.1.1. Planning the Solicitation 11
4.1.2. Scope of Work and Specifications 12
4.1.3. Drafting the Solicitation 14
4.2. Purchases Below $10,000/Open Market 15
4.3. Informal Quotes 15
4.3.1. Notice to Proceed 16
4.4. Formal Solicitations 16
4.4.1. Invitation for Bids (IFB) 17
4.4.2. Request for Proposals (RFP) 21
4.4.3. Request for Qualifications (RFQu) 26
4.4.4. Supplier/Public Notification 30
4.4.5. Pre-Bid/Proposal Conference 31

4.4.6. Addenda 31
4.4.7 Award 32
4.4.8. Solicitation Cancellations 32
4.4.9. Construction Procurement 33
4.4.10. Term Contracts 36
4.5. Competitive Negotiation 37
4.6. Tie Breaker Process 37
4.6.1. Tied Solicitations 37
4.6.2. Tied Proposal Evaluation Scores 38
4.7. Single Solicitation Response 38
4.8. Time Sensitive Procurements 38
4.9. Best Value vs. Best Price for Bids and Proposals 39
4.10. Bonds 39
4.10.1. Bid Bond 40
4.10.2. Performance Bond 40
4.10.3. Payment Bond 40
5. Submittal Withdrawals, Revisions, and Rejections 41
6. Exceptions to Competitive Solicitation 42
6.1. Utilities 43
6.2. Emergency Purchases 43
6.2.1. Description of Emergency Purchases 43
6.2.2. Conditions of Use for Emergency Purchases 43
6.2.3. Emergency Purchase Approval Process 44
6.2.4. Emergency Contract Requests 45
6.2.5. Emergency Purchase Disapproval 46
6.3. Sole Source Procurements 46
6.3.1. Written Justification Required 46
6.3.2. Sole Source Procurement Approval Process 47
6.3.3. Sole Source Approval Criteria 47
6.4. Proprietary Procurements 48
6.4.1. Conditions of Use for Proprietary Procurement 48
6.4.2. Proprietary Procurement Approval Process 49
6.5. Cooperative Purchasing Agreements 49

6.6. Purchase of Secondhand Articles or Equipment 50
7. Fundamental Procurement Information 50
7.1. Procurement Mechanisms 50
7.1.1. Standard Purchase Orders 50
7.1.2. Purchasing Cards 52
7.1.3. State Contracts 52
7.2. Computer Software and Hardware 53
7.2.1. Software as a Service 53
7.3. Subscriptions 53
7.4. Acquisition of Real Property 53
7.5. Reimbursable Projects 53
7.6. Life Cycle Costing 54
7.7. Tax Exemption 56
7.8. Invoice Payments 56
7.9. Federal, State, and Other Grant Funded Purchases 56
7.9.1. Federal Transit Administration (FTA) Purchases 56
7.10. Items Requiring PBA Board Approval 58
7.11. Site Visits 58
8. Disadvantaged Business Enterprises (DBEs) 59
8.1. Criteria and Standards of Eligibility 59
8.2. Certification 59
8.3. Goal 60
8.4. Implementation 60
8.5. DBE Reports 60
8.5.1. Disadvantaged Business Annual Report 60
8.6. Responsibilities of the Procurement Office with regard to DBEs 61
9. Protest, Stay of Award, and Debarment and Suspension 61
9.1. Protest and Stay of Award 61
9.1.1 Protests Involving FTA Funds 63
9.2. Vendor Debarment and Suspension 63
9.2.1 Statement of Policy and Purpose 63
9.2.2 Federal Debarment 64
9.2.3. Supplier's Continuing Duty to Disclose 64

10. Supplier Registration 65
11. Contracts 66
11.1. Cardinal Changes 67
12. Surplus Property 67
12.1. Donations of Surplus Assets 67
12.2. Sales of Surplus Property to Other Governmental Entities 68
12.4. Vehicles 68
12.5. Real Estate 68
12.6. Ethics Relating to Surplus Property 68
13. Records and Reports 68
13.1. Records 68
13.1.1. Tennessee Public Records Act Requirements 69
13.2. Reports 70
14. Glossary of Procurement Related Terms 70
15. Appendix 78
1-APP Contract Matrix 80
2-APP PBA Code of Ethics 81
3-APP Evaluation and Selection Committee Member Agreement 87
4-APP Solicitation/Quote Request Form 88
5-APP Purchasing Card Policies and Procedures 89
6-APP Purchasing Card Cardholder Agreement 92
7-APP FTA-Funded Procurement Terms and Conditions 93
7-APP Part A. FTA-Funded Procurement Checklist 94
7-APP Part B. Federally Funded Contract Requirements 95
8-APP Independent Cost Estimate 96
9-APP Project Assignment Form/Work Request 97
10-APP Public Records Request Form 98
11-APP Cost Estimate for Public Records Request Form 99

1. Introduction.

The Public Building Authority Procurement Office operates under the authority set forth in Tennessee Code Annotated (TCA) § 12-10-109, otherwise referred to as the "Public Building Authorities Act of 1971", which authorized local governments to create public building authorities. The Public Building Authority of the County of Knox and the City of Knoxville, Tennessee, hereinafter referred to as "PBA", was created in 1971 by Knox County and the City of Knoxville by joint action. PBA's Certificate of Incorporation was filed with the Secretary of State of Tennessee on July 20, 1971.

A public building authority is a public, non-profit corporation. The PBA is governed by a Board of Directors ("Board"), which is appointed by the mayors of both the County of Knox and the City of Knoxville. The Board may establish other purchasing guidelines as necessary.

The contents of this manual are not intended to conflict with any existing law. If any part of the manual conflicts with the law, the law shall take precedence. This edition of the Procurement Manual supersedes all previous editions and changes thereto.

1.1. Updating the Procurement Manual

These policies and procedures will be reviewed and updated as needed. As revisions occur, replacement pages will be published with corresponding publication dates and revision numbers. Outdated portions of the document are to be removed and replaced with these revised pages as they are released. Any revisions will be reviewed by the Director of Finance and the PBA Administrator/CEO for final approval. Departments desiring to update or adjust the Procurement Policies and Procedures should send a memorandum to the Procurement Office requesting such changes with supporting rationale.

The Director of Finance and the Procurement Manager shall adopt, promulgate and may from time to time amend the regulations for the purchase and/or sale of supplies, materials, equipment, contractual services and surplus equipment and property, specifically for the following purpose:

- Authorizing in writing any department or employee to make purchases in the open market for immediate delivery in emergencies, defining such emergencies, and describing the manner in which such emergency purchase shall be made.

- Prescribing the manner in which supplies, materials and equipment shall be requisitioned, purchased, delivered and distributed; and providing that such shall be conducted in accordance with these provisions.

- Prescribing the dates for submitting requisitions and estimates, the future period they are to cover, the form in which they are to be submitted, the manner of their authentication and their revision.

- Prescribing the manner of inspecting all deliveries of supplies, materials and equipment and of making or procuring chemical and/or physical tests of samples submitted with bids and samples of deliveries to determine compliance with specifications.

- Requiring periodic and special reports by departments and employees of stocks or surplus, unusable, or obsolete supplies and equipment on hand and prescribing the form of such reports.

- Providing for the transfer to or between PBA departments or to the City of Knoxville or Knox County of supplies and equipment on hand, which are surplus within one department, but which may be needed by another or others.

- Determining whether a bond is to be submitted with a bid on a purchase contract or same and, if required, prescribing the amount and form thereof, and providing that such surety shall be forfeited if the successful bidder refuses to enter into a contract ten (10) days after the award.

- Prescribing the manner in which invoices for supplies, materials, equipment and contractual services delivered to any and all departments and offices of PBA shall be submitted, examined and approved.

- Providing all other such matters as may be necessary to conduct the business of PBA.

1.2. E-Procurement

Except as provided in this Manual, all departments shall utilize PBA's e-procurement system for processing all procurement transactions.

1.3. Purpose

The overall purpose of this Manual is to:

- Provide guidance and detailed procedures concerning planning, solicitations, procurement methods, procurement administration, contract award, and contract management to supplement the requirements of the Tennessee procurement statutes and the Board's Policies;

- Enable uniform procurement policies throughout the organization;

- Preserve and enhance public confidence in public procurement;

- Ensure the fair and equitable treatment of everyone who interacts with the procurement system;

- Provide for increased efficiency, economy, and flexibility in public procurement activities and maximize the purchasing power of PBA to the fullest extent;

- Foster effective, broad-based competition from all segments of the supplier community;

- Safeguard the integrity of the procurement system and protect against corruption, waste, fraud, and abuse;

- Ensure appropriate public access to contracting information; and

- Foster equal employment opportunities among suppliers and subcontractors interested in doing business with PBA.

1.4. Procurement Manual Compliance

T.C.A. CODE: All purchases shall be made in accordance with the State of Tennessee "Public Building Authorities Act of 1971" § 12-10-101 through § 12-10-124 and T.C.A. § 12-3-101 through § 12-3-1212.

THE PBA BOARD of DIRECTORS: The Board has the authority to pass additional purchasing regulations.

BEST PRACTICES: Where the T.C.A., the PBA Board of Directors' purchasing regulations, and this manual do not address nor provide insight into how day-to-day purchasing activities are to be handled, the Procurement Manager should review,

consult, and adopt the best practices as defined by the National Institute of Governmental Purchasing (NIGP).

1.5. Functions and Responsibilities

1.5.1. PBA Procurement Manager

The Procurement Manager shall comply with Tennessee laws, policies stated herein, and the best practices within the purchasing profession in all procurement activities conducted for PBA.

It is the role of the Procurement Manager to direct, supervise, and manage Procurement Office staff to ensure the day-to-day operations are run efficiently and effectively. Duties include, but are not limited to, 1) developing and administering procurement contracts between departments, suppliers, and clients as applicable, 3) managing the electronic purchase order system, 4) ensuring requisitions submitted are processed without delay, 4) interviewing suppliers, 5) maintaining records and 6) other various related tasks as assigned. The Director of Finance has the authority to revise this role and its responsibilities as needed.

1.5.2. Requisitioning Departments

Procurement must be a combined effort between departmental requisitioners and the Procurement Office. Only when each of these entities performs properly will the procurement process be timely and maximize savings for the clients and respective taxpayers. All departments should adhere to the policies and procedures contained in this document. Requisitioning Department responsibilities are outlined below:

- Allow ample lead-time for the Procurement Office to process the requisition, issue the Purchase Order and allow the supplier time to deliver the needed items. Three (3) business days is the necessary lead time for a request for a Purchase Order. A request for a Notice to Proceed (“NTP”) may take up to thirty (30) days; a request for a Request for Proposals (“RFP”), Invitation for Bids (“IFB”), or Request for Qualifications (“RFQ”) may take up to 90 days.

- Advise the Procurement Office of defective merchandise or dissatisfaction with the supplier performance.

- Promptly receive requisitioned items in the procurement software to assist Accounts Payable in the processing and payment of invoices.

2. Ethics

2.1. Ethics and Conflicts of Interest – Generally

All PBA employees are expected to follow PBA's *Code of Ethics* and *Conflict of Interest Policy*, which are incorporated in this Manual by reference. All employees must discharge their duties fairly and impartially. They must also maintain a standard of conduct that inspires public confidence in the integrity of PBA's procurement process. As a governmental entity, PBA is obligated to aspire and attain to the highest level of ethical standards. The following guidelines are not an exhaustive detailing of all ethical situations. If further questions arise, consult with your immediate supervisor and PBA's Legal Counsel for a definitive ruling.

2.2. Responses by PBA Employees

Contracts for goods or services with current PBA employees or PBA employees who have separated from PBA employment for less than six months are prohibited. If PBA receives such a response, it will be deemed nonresponsive.

2.3. Gratuities

The prohibition of gratuities is outlined in PBA's *Code of Ethics* (see Appendix 2-APP). Purchases of all supplies, materials and equipment, contracts for labor or services and leases are void if any PBA employees who were involved in the awarding of such a procurement but did not disclose having a personal interest in said purchases, contracts, or leases. PBA shall not be liable for any such purchase, contract, or lease.

2.4. Supplier Samples

When suppliers offer samples for evaluation, they will be accepted only under the following conditions:

- The product is one, which is of a type presently in use or is of potential use to PBA. Samples of goods not likely to be purchased are not to be accepted.

- The quantity or size of the sample is small and is of low value. The purpose of a sample is to serve as an example to help determine its ability for PBA service - not to provide an inventory of the material.

- Any chemicals offered as samples are not acceptable unless accompanied by an OSHA Safety Data Sheet (SDS).

- If samples are accepted, they shall be promptly conveyed to the appropriate department for testing. The supplier is entitled to a prompt evaluation of the sample, and PBA intends to provide this courtesy.

2.5. Product Endorsements

Requests for approval of a news release or advertisement stating PBA, or any of its operating units or personnel, uses a product or service offered by a particular firm shall be referred to the Director of Finance for approval.

2.6. Contemporaneous Employment

It is a breach of ethical standards for any employee who is involved in a procurement to become or be, while such an employee, the employee of any party contracting with PBA.

2.7. Use of Confidential Information

Confidential information is defined as that information which is available only because of one's status as a PBA employee. It shall be a breach of ethical standards for any employee or former employee to use confidential information for actual or anticipated personal gain or for the actual or anticipated personal gain of another person.

3. Definitions

Definitions are included in the Glossary of Procurement Related Terms at the back of this Manual.

4. Competitive Bidding and Specifications

4.1. Procurement Methods – Generally

Procurement is a systematic process of obtaining goods and services with pricing and on terms and conditions in PBA's best interests. Competition should be involved in the procurement process to the maximum extent practicable, with the caveat that a non-competitive process (e.g., informal solicitations, emergency purchases, and sole source) is sometimes necessary under the circumstances.

The procedures set forth in this section shall apply to all purchases of goods and/or services, irrespective of the procurement method involved. The foregoing notwithstanding, procurement professionals should use sound judgment in following the guidance contained in this Manual as not every procedure will fit every circumstance a procurement professional faces in procuring goods and/or services.

4.1.1. Planning the Solicitation

Proper and sufficient planning should be performed to ensure the successful acquisition of the good(s) and/or service(s). Such planning may include, but not be limited to, the following:

- Determine appropriate method of procurement, i.e. IFB/RFQ/RFP, based upon nature and scope of deliverables being purchased;
- Estimate expected total expenditure or revenue;
- Confirm availability of funds for expenditure;
- Evaluate historical spending trends for the same or similar items;
- Draft open specifications using available information sources;
- Identify existing equipment, if any, as trade-ins;
- Define timeline for receipt of deliverables;
- Establish evaluation criteria to determine how an award will be made (e.g. lowest total cost, lowest cost per item or groups of items, or best overall evaluated bidder).
- Identify prospective vendors to create greater competition for best value.

The following sections of this document go into further detail on the mechanisms by which the Procurement Office procures products and services. The following chart depicts how the decision is made whether to enter into competitive bidding or whether other procurement mechanisms will be employed and is provided below for guidance.

The manner in which purchases are made is governed in large part by the cost of the purchase. The following thresholds indicate the lawful manner of purchase except where grant funding may require additional terms and conditions. (Note: P-card purchases are governed by monthly credit limits in addition to these thresholds.) When planning a purchase, the following thresholds should be kept in mind:

$0→$9,999	$10,000→$24,999	$25,000 +
Open Market	Informal Quotes	Formal Solicitations

Purchases of like items must be aggregated for the purposes of the bid threshold.

4.1.2. Scope of Work and Specifications

Whenever possible, scopes of work and procurement specifications for goods and services shall be worded or designed to permit open and competitive solicitation.

The scope of work is a detailed description of what is required of the supplier to satisfactorily perform or deliver what is required under the contract. The scope of work should provide a clear and concise description of the desired goods and/or services.

Specifications used for competitive bidding shall be functional or performance specifications, when practicable, and must be clear, unambiguous and written to promote open and fair competition.

Specifications may take the following forms:

- *Descriptive Specifications*:
    - Identify descriptive format and should, if practicable, achieve the following: the product using generic terminology in the description;

- List any characteristics that determine performance capability and identify those characteristics that are essential in order to meet performance requirements; and

- Detail the minimum or maximum acceptable performance requirements for each characteristic with as much tolerance and flexibility as practicable.

- *Specifications Based on Brand Name*. All brand and model numbers used for the purchase of goods must be those in current production and available in the market. The use of brand and model names alone will not be permitted as a substitute for performance or functional specifications, unless providing performance or functional specifications is impracticable. When an item is specified by the use of brand names, the words "or equal" should be included.

  Reference to brand names, trade names, model numbers, or other descriptions peculiar to specific brand goods, is made to establish a required level of quality and functional capabilities. It is not intended to exclude other goods of comparable quality or functionality. Comparable goods of other manufacturers will be considered if proof of comparability is contained in the response.

- *Specifications Based on Standard Specifications and Scopes of Work*. PBA may develop standard specifications and scopes of work for the procurement of goods and/or services which fit, insofar as possible, the requirements of the majority of its departments that use the same.

- *Specifications Based on Catalogs, Price List, or Price Schedules*. Specifications may require vendors to respond to a solicitation using a plus (+) percentage (%), minus (-) percentage (%), or net cost offered as a discount or surcharge applying to the goods listed in the catalog, price list, or price schedule described within the solicitation. Solicitations of this type shall include a specific list of items for competitive analysis.

- *Specifications Based on Qualified Goods List*. Specifications may include a list of pre-approved brands and model numbers that meet the requirements. Whenever such pre-approved items are listed, the solicitation shall provide an opportunity for the submittal of additional items for consideration by PBA for inclusion in the approved brands/model numbers. If additional items are approved for bidding, notification shall be provided to all bidders. The decision

to approve additional brands/models for bidding shall be at the sole discretion of PBA.

4.1.3. Drafting the Solicitation

The Procurement Office will prepare a solicitation document using the information developed during solicitation planning. The solicitation document shall include sufficient information to permit a complete and accurate bid/proposal and shall, at a minimum, contain the following information:

- The required sole point of contact from PBA;
- The time and place that submittals will be received and opened;
- Information describing the purpose of the procurement, technical requirements, supplier qualifications, and any other information considered relevant to the goods or services being acquired;
- The quantity of goods or services required;
- The question/answer period and/or pre-bidders' conference, with a written record of questions and responses provided to all prospective suppliers;
- Expected time of delivery;
- Amount of insurance, bid, payment, and/or performance bond, if any;
- Pro-forma contract, if applicable, containing the terms and conditions required by PBA;
- Description of the criteria used to evaluate bids/proposals;
- Date bids/proposals will be available for public inspection;
- An inquiry to supplier regarding whether other governmental entities may purchase from the contract; and if so, the period of time during which the contract terms and pricing will be available to other entities; and
- Standard terms and conditions applicable to the solicitation.

4.2. Purchases Below $10,000/Open Market

Purchases below $10,000.00 may be made in the open market. Purchases of like items or services must be aggregated for the purposes of this threshold. Regardless of which vendor the item(s) or service(s) have been purchased from, once the aggregate total of purchases reaches $10,000, purchases of any other like item cannot be made on the open market.

Where possible, purchases should be directed towards vendors who have existing contracts in place with PBA. If purchases are made with vendors under a term contract, the vendor must comply with contract pricing as submitted and agreed upon.

As a practical rule, a "buyer" should always ask for written quotes. The quote should identify the product with item number or describe the service requested. It should itemize between what is labor, product cost and what is shipping and handling fees. The quote should list the per item price, a quantity desired, a subtotal price and a grand total price. The quote should be on a company letterhead and identify the person authorizing the quote. The quote should be dated and note when the quote is no longer valid if pertinent.

4.3. Informal Quotes

Any purchase estimated to bring the aggregate total of purchases of like items or services to be $10,000.00 to $24,999.99 will require **three** (3) written quotes. Past purchases of like items or services must be taken into consideration when determining if a purchase will cause this threshold to be met. Attempts to acquire a written quote from a qualified supplier who is not responsive or does not meet the established time frame can be used to satisfy the intent of getting three quotes by documenting the efforts made. At no time does this requirement satisfy the need for an RFP/IFB process. Once a purchase or the aggregate is estimated to be $10,000.00 and below $25,000.00, a request may be sent to the Procurement Office for the collection of quotes and determination of an award, or the PBA designee may collect quotes and forward them to the Procurement Office for review and creation of a NTP or PO.

It is understood when making purchases that if possible, those purchases will be made from suppliers who have active, existing contracts already in place with PBA. Should the aggregate total from all purchases of like items or services total an annual expense of $25,000.00 or above then a formal solicitation must be issued.

4.3.1. Notice to Proceed

A Notice to Proceed (NTP) involves purchases related to projects where we have identified the product(s) and/or service(s) desired and have a set price and a contract. PBA may condition the start of work on the issuance of a NTP, regardless of whether a PO has been issued for the work. The Procurement Office most commonly conditions a PO on the issuance of a NTP if the project exceeds $100,000 and therefore requires payment and performance bonds before work can commence, however, PBA may condition a PO on the issuance of a NTP regardless of the amount of the PO. The Procurement Office must receive and verify the payment and performance bonds before a NTP can be issued. If a PO is conditioned on the issuance of a NTP, the PO will note this requirement.

If the purchase is a reimbursable, the Procurement Office must have a completed project assignment form or a fully executed work request order before issuing a NTP. Federal, state, or other grant funded projects may have different requirements. If the project is funded through one of these sources, refer to the section on federal, state, and other grant funded purchases for additional information.

4.4. Formal Solicitations

Formal, competitively bid solicitations will be issued for purchases equal to or greater than $25,000.00 (or the cumulative of). Purchases of like items and services must be aggregated for the purposes of the bid threshold. The Procurement Office may at its discretion issue a formal solicitation for purchases near $25,000.00. Solicitation documents will contain clear specifications promoting fair, competitive bidding. The goal of any solicitation process is to induce a number of qualified responses in a competitive environment for goods and/or services. Solicitation documents must be publicly posted and prospective suppliers given adequate time to respond. Ten (10) days is the minimum number of days required to give before responses are due.

It is the Procurement Office's role to manage the solicitation process to ensure all competitive solicitations are fair and open. The supplier's sealed response must include a letter signed by the business's representative who is authorized to commit the company to an agreement for goods and/or services. PBA may select to award to multiple suppliers or to one supplier whichever is in the best interest of PBA.

Responses must be received through either PBA's online portal or in person at the specified location on or before the date and hour designated in the solicitation. All responses received

in person will be date and time stamped by a PBA designee utilizing the Procurement Office's official timestamp machine to show the response was submitted prior to the deadline designated in the solicitation. Late responses will not be considered. Responses that arrive late due to the fault of U.S. Postal Service, United Postal Service, DHL, FEDEX, any delivery/courier service, or any other carrier of any sort are still considered late and shall not be accepted by PBA. Such late responses shall remain unopened and will be included in the solicitation file. The clock on PBA's official timestamp machine is the only authorized timepiece pertaining to the time for the opening of bids, proposals, or statements of qualifications.

Listed below are three (3) types of formal bids:

4.4.1. Invitation for Bids (IFB)

An IFB typically requests bids for a good or service for which a set of specifications can be clearly defined. This may be a one-time purchase, a pricing agreement for on-going purchases, or an ongoing service of a repetitive nature. The supplier response is a sealed bid when the price is $25,000 or above. Since all the submittals are for the same item/service the only criteria used in selecting an "awardee" is price. Also referred to as the "low bidder". Although price is the deciding factor, the awardee must also be responsible and responsive to the bid.

The department should allow four weeks for the Procurement Office to process the IFB and to allow suppliers to fully and openly compete. The Procurement Office will post the IFB on the procurement website and on the online portal to notify prospective suppliers of the solicitation. The Procurement Office is the only organization within the PBA authorized to respond to inquiries from potential suppliers once the IFB has been released. Departments that receive such inquiries shall refer the inquiring party to the Procurement Office.

4.4.1.1. Specifications for IFBs

Invitations for Bid (IFBs) shall specify the following:

- Time and place bids will be opened.
- Amount or number of articles or services required.
- Based on the complexity or the scope of work, whether the Procurement Office will require a pre-bid conference.

- Amount, if any, of a bid bond to accompany the bid/proposal. Note that bid bonds are not normally required for projects estimated to cost less than $100,000.

- Amount, if any, of a payment and performance bond required of the successful bidder to be posted at contract signing. The amount of a performance bond is 100% of the total cost of the contract. Payment and performance bonds are required for construction contracts valued at $100,000 or more. PBA may require payment and performance bonds for other service-based contracts, but such bonds shall not be excessive and shall not be required with the primary intent being to limit competition.

- Insurance requirements as stipulated by the Director of Finance.

- General declaration of the contract terms and conditions that shall be required.

- Whether other governmental organizations may purchase from the contract.

- Period of time (normally 90 days) during which each bidder must honor their bid.

- Generally, the IFB should be released at least fourteen (14) calendar days before the date that the bids are scheduled to open. Additional time may be allowed when fourteen (14) calendar days are not sufficient for suppliers to adequately prepare their response. The Procurement Office designee shall make the final decision concerning the time required.

- Non-Collusion Affidavit, if applicable.

- Specifications based on brand names and product numbers: References to brand names, trade names, model numbers or other descriptions particular to specific brand products are normally made to establish a required level of quality and functional capability. They are not normally intended to exclude other products of equal value. Comparable products of other manufacturers will usually be considered if proof of comparability and equal value is contained in the bid. However, PBA reserves the right to seek specific brand and models which serve its best interest. The Procurement Office designee shall make this determination.

- IFBs dealing with federally funded procurements for Knoxville Area Transit (KAT) must contain appropriate Federal Transportation Administration (FTA) clauses and protest procedures. Proposers/bidders also must meet prequalification criteria, and PBA must acquire and record all appropriate certifications (see Appendix 7-APP). Suppliers will be notified in the solicitation document if the project is federally funded.

- IFBs utilizing funding from state or federal sources may contain additional requirements. Suppliers will be notified of any additional requirements in the solicitation documents. Federally funded procurements must contain any clauses required by the specific funding source.

It is the supplier's responsibility to notify the Procurement Office designee listed on the solicitation prior to bid opening if it appears that defined specifications are not fair and open.

It is the supplier's responsibility to furnish with the bid such specifications, catalog pages, brochures, or other data to provide an adequate basis for determining the quality and functional capabilities of the product offered. Failure to provide this data may be considered justification for rejection of a bid. Additionally, there are some cases when PBA will not accept products of equal value. This will be stated in the IFB.

When more than one item is specified in the IFB, PBA has the right to determine the low bid supplier(s) either on the basis of each individual item, a group of items, or the total of all items, with the intention of achieving the best value for PBA.

All material, supplies, and equipment offered and furnished must be new unless the IFB specifically permits used, remanufactured, or reconditioned items. IFBs that permit used, remanufactured, or reconditioned items shall require a warranty. The Procurement Office has the authority to waive this requirement on a case-by-case basis, when it is in the best interest of PBA.

After opening and evaluating the bids received, the Procurement Office may award the purchase to a specific supplier via a term contract or a Purchase Order ("PO"). A PO is legal document authorizing a purchase from a supplier. The term contract or PO should contain statements about the quantity, description, and price of the goods or services ordered; terms of payment, discounts, date of performance, transportation terms, and all other agreements pertinent to the purchase and its execution by the vendor.

The acceptance of a PO or execution of the term contract by the supplier is subject to the standard terms and conditions of the PBA. The terms and conditions are publicly displayed in the solicitation and must be complied with to successfully complete the PO or term contract.

Any proposed change to any PO or term contract must be submitted to the Procurement Office. A change order or contract amendment will not be completed until such request has been submitted. The supplier should place the PO and/or contract number as applicable on all invoices submitted for payment.

4.4.1.2. IFB Public Opening

All bids received on time shall be publicly opened and examined by the Procurement Office at the time and place specified in the IFB. The names of the bidders and the bid amounts are read aloud after verifying that all requested documentation has been submitted.

All bids, with the name of the bidder, shall be recorded, become a matter of public record, and are open to public inspection after bid opening. The Procurement Office has the authority to waive technicalities, irregularities, and/or abnormalities concerning bid submissions. Additionally, the Procurement Office may follow up with individual organizations after the bid opening to obtain certain bid documents or to obtain clarifications regarding bid pricing, product specifications, or other information pertinent to the bid when it is in the best interest of PBA.

Each bid must state the full name and business address of the supplier. If the supplier is a corporation, the name shall be stated as it appears in the corporate charter. The supplier's authorized agent must sign each bid in ink or electronically. If signing electronically, the signature must be accompanied by a certification provided by the e-signature platform. Unsigned bids may be rejected. The person signing the bid must show their title and, if requested by PBA, must furnish satisfactory proof of their authority to bind their company in contract. Bids must be typewritten or handwritten in ink; otherwise, they may not be considered. Faxed or emailed bids are not acceptable.

Improperly identified bids may be opened, solely for identification, and only by the Procurement Office designee. If a sealed bid is opened accidentally, the person who opens it should immediately close the envelope and reseal it to the extent possible, sign the envelope, and deliver it to the Procurement Office. The Procurement Office designee should then immediately write on the envelope an explanation of the

circumstances of the opening, the date and time opened, and affix their signature. Bids opened by mistake or for identification purposes must be resealed in the envelope, and no information contained therein can be disclosed prior to the public bid opening.

4.4.2. Request for Proposals (RFP)

An RFP is a document soliciting proposals wherein suppliers describe the product(s), service(s), qualifications, experience or other identified verifiable criteria as well as the price they will charge based on the specifications in the document. The RFP is used when factors other than price are critical to the selection of the winning supplier(s). The supplier's response is a proposal. An evaluation committee may be selected to give fair and impartial judgement as to which proposer's submittal is the best. The RFP results in the award of a contract that will provide the best value to PBA. All references in this Manual to an Evaluation Committee apply only if PBA chooses to appoint an evaluation committee to make the selection.

For competitive procurements of goods and/or services, where cost is not the only determining factor for award, the Standard RFP Template should be used for the solicitation. An RFP shall specify all steps and evaluation criteria as necessary to finalize selection of the successful proposer. A multi-step RFP process should be used when additional steps are necessary to qualify and/or demonstrate the goods and/or services proposed.

For competitive procurement of services, an RFP is more appropriate, and a PO is generally not sufficient to serve as the written contract for the services.

4.4.2.1. Initiating an RFP

A department determines the need for a product and/or service and notes the factors other than cost and specifications which may be considered to select a supplier or suppliers (e.g. qualifications and experience, plan to accomplish the scope of work, financial soundness of the firm). To formally initiate the RFP, the requesting department shall submit a request (See Appendix 4-APP) to the Procurement Office so that the request can be approved by the PBA Director of Finance to confirm funds are available for the purchase.

4.4.2.2. Preparing an RFP

The department prepares a Solicitation Request Form along with a draft of the specifications and submits it to the Procurement Office. The requesting department should also submit a list of suggested names of firms to notify who might have interest in responding to the RFP. The Procurement Office Designee will add the specifications and the information submitted on the Solicitation Request Form into a draft RFP document and submit it to the requesting department for review. Once edits have been made, the Procurement Office Designee will finalize the RFP and release the solicitation. Solicitations utilizing federal funds (e.g., procurements for the Knoxville Area Transit (KAT)) must contain appropriate Federal Transportation Administration (FTA) clauses and wording (see Appendix 7-APP). It is possible that other federal or grant funds will be used for procurements. In these cases, the applicable funding language will be included in the solicitation.

4.4.2.3. RFP Public Closing

All proposals submitted by the deadline shall be publicly examined at the location, date and time specified in the RFP and the names of the proposing organizations stated for the record. At that time, the names of the proposing suppliers are recorded on a “proposal tabulation sheet." The Procurement Office has the authority to waive technicalities, irregularities, and/or abnormalities concerning proposal submissions. Additionally, the Procurement Office designee may follow up with individual organizations after the proposal closing to obtain proposal documents or clarifications when it is in the best interest of the PBA.

Each proposal must state the full name and business address of the supplier. If the supplier is a corporation, the name shall be stated as it appears in the corporate charter. The supplier’s authorized agent must sign the proposal. Unsigned submittals may be rejected. The authorized agent signing the proposal must state their title, and if requested by PBA, furnish satisfactory proof of their authority to bind their company in contract.

Improperly identified proposals may be opened, solely for identification purposes, and only by the Procurement Office designee. If a sealed proposal is opened accidentally, the person who opens it should immediately close the envelope and reseal it to the extent possible, sign the envelope, and deliver it to the Procurement Office. The Procurement Office designee should then immediately write on the envelope an explanation of the circumstances of the opening, the date and time

opened, and affix their signature. Proposals opened by mistake or for identification purposes must be resealed in the envelope, and no information contained therein can be disclosed prior to the public proposal closing.

Once the proposals are deemed responsive, the evaluation committee member agreement is completed by each committee member and a copy of each responsive proposal is provided to each evaluation committee member. The Procurement Office retains the original proposals that hold the proposer's actual signature, and these are kept on file in the Procurement Office. Only the name of the entities that submitted a proposal shall be made public until the evaluation process is completed.

4.4.2.4. Proposal Evaluations

The proposal evaluation process is designed to identify the "most responsive proposal". Only objective and measurable criteria should be used to evaluate the submittals. Examples include, but are not limited to, base cost of the item or service, transportation costs, warranties, key personnel experience, similar past projects, certifications and so forth. Discounts are not normally considered until the winning proposal is selected.

The Evaluation Committee must score the proposals based upon the selection criteria stated in the RFP and rank order the proposals based on these scores. The Evaluation Committee evaluates the proposals to determine the supplier(s) that will provide the best value to PBA. Evaluations are based upon a 100-point scale that rank orders the selection criteria in relative importance.

An example formula for the point rating system may be as follows:

Price (RFPs only)	40 points
Experience/Qualifications of the proposer	20 points
Experience of Key Personnel	20 points
Delivery Schedule/Warranty	10 points
References	10 points
Total	100 points

The point rating system above is only an example. Actual point allocations are to be adjusted to fit the requirements of PBA and the project to which they relate.

4.4.2.5. Evaluation Committee

An Evaluation Committee may be used to evaluate responses to RFPs. Members of the Evaluation team may be comprised of one or two members of the requesting department, members from other PBA departments, client representative(s), and a Procurement Office designee. Evaluation team members may or may not have knowledge of the service or goods being procured, however, they must be capable of making a fair and unbiased decision based upon the information received. Selection of the members of evaluation teams will be dependent upon complexity of the procurement as well as funding sources.

An example of an evaluation technique is to read each of the proposals individually, conduct a site survey (where applicable), interview candidates that meet the specification in order to clarify issues and answer questions, then reconvene the committee for a group discussion before preparing final scores. The final scores may be done either individually or as a group depending upon the guidance of the PBA Procurement Office designee.

Each evaluator shall sign an Evaluation and Selection Committee Member Agreement (See Appendix 3-APP) affirming that neither they nor their immediate family members have any affiliation (financial or otherwise) with the individuals, teams, or firms being evaluated in order to avoid conflicts of interest. This form shall be submitted to the Procurement Office and shall be placed in the RFP file as part of the official record. No member of the team may divulge any information about the evaluation until the recommended selection is made.

If the "winning" supplier's price exceeds the amount budgeted for that particular product or service, the Procurement Office may contact the supplier to negotiate with them to lower the price. PBA also reserves the right to negotiate with the supplier(s) regarding other factors within the solicitation that may affect the product or service to be provided under the award.

4.4.2.6. Notification of Top-Ranked Supplier(s)

After approval of the recommendation, the Procurement Office sends correspondence to the proposers, indicating the top-ranked, or short-listed, proposals. It also will inform the proposers that the award is contingent upon a contract resulting from negotiations with supplier(s).

4.4.2.7. Finalizing the Terms

The Procurement Office designee then negotiates with the most responsive/responsible supplier(s) to finalize the terms of the contract. During these negotiations, the Procurement Office designee may seek to lower the cost to PBA, adjust the delivery time, and whatever else is needed to best serve the needs of PBA. However, the Procurement Office designee cannot significantly alter the requirements and terms set forth in the RFP, as this is the standard used by each supplier to prepare their response. If the Procurement Office designee is unable to come to agreeable terms with the most responsive supplier, they may negotiate with the next most responsive supplier. PBA reserves the right to negotiate with multiple suppliers simultaneously.

4.4.2.8. Contract Preparation

PBA Legal Counsel has approved the standard PBA contract Terms and Conditions format. If there are no significant alterations made to the contract Terms and Conditions, then the Procurement Office will prepare the contract for signatures. For most general contracts, PBA's solicitation and the awarded supplier's response are joined through a simple agreement form to bind them into a contract. The agreement form shall note any changes to the standard Terms and Conditions or submitted pricing. A New Contract Form is submitted with the agreement to collect signatures for approval. Typically, the signatures required are the Procurement Office designee's, the user department's Director or Manager, the Director of Finance, and the PBA Administrator/CEO who also signs the contract(s).

4.4.2.9. Public Record

When the Intent(s) to Award is issued, it becomes a matter of public record, along with the list of proposers, information about the evaluation process and names of the Evaluation Committee. If submitted, bid bonds are returned to the suppliers by the Procurement Office after the contract has been awarded and is fully executed.

4.4.3. Request for Qualifications (RFQu)

As directed by the PBA Board of Directors, a RFQu is used when selecting professional service suppliers (e.g., architects and engineers). An award to an RFQu cannot be based solely upon pricing. Firms responding to an RFQu submit supporting documentation confirming their experience, education, certifications and qualifications of the company and the key personnel expected to be involved in a project(s). Qualifications generally include a list of similar projects that have been completed by the company as well as key personnel assigned to those projects.

An evaluation committee is utilized to give fair and impartial judgement as to which firm's submittal has the highest qualifications to perform the project(s). The selection results in the award of a contract that will provide the best value to PBA.

Professional Services are considered the services of individuals, teams, or organizations who are licensed and certified (as required) in their particular field of expertise and adhere to an industry accepted set of technical or ethical standards. Examples include, but are not limited to, accountants, appraisers, archaeologists, business consultants, architects, engineers, physicians, researchers, real estate brokers, and so forth.

4.4.3.1. Initiating an RFQu

Before the decision is made to contract with a professional services firm, team, or individual, the nature of the project that the professional is to address must be clearly defined. The requesting department will state in writing the technical requirements, extent, and limitation of the project; provide a list of objectives and state what is to be accomplished; the nature of the work and the process, timelines, reports, and final submission requirements; and the extent to which periodic payments will be allowed, and how the final payment will be made.

When seeking to award a contract for professional services, PBA's primary focus is on the ability of an organization or team to conduct the proposed project to a high standard of quality. Cost is considered but has less relative importance than the demonstrated competence and qualifications of the professional services firm.

To formally initiate the RFQu, the requesting department shall submit a Solicitation Request Form (See Appendix 4-APP) along with a draft of the specifications to the Procurement Office. The requesting department should also submit a list of suggested suppliers who might have an interest in responding to the RFQu. The

Procurement Office designee will forward this request to the PBA Director of Finance to confirm that funds are available for the purchase.

4.4.3.2. Preparing an RFQu

The Procurement Office designee will add the specifications and the information submitted on the Solicitation Request Form into a draft RFQu document and submit it to the requesting department for review. Once edits have been made, the Procurement Office designee will finalize the RFQu and release the solicitation. Solicitations utilizing federal funds (e.g., procurements for the Knoxville Area Transit (KAT)) must contain appropriate Federal Transportation (FTA) clauses and wording (see Appendix 7-APP). It is possible that other federal or grant funds will be used for procurements. In these cases, the applicable funding language will be included in the solicitation.

4.4.3.3. RFQu Public Closing

All qualifications received on time shall be publicly examined at the date and time specified in the RFQu, all submittals are retrieved at the designated location and the names of the proposing organizations are stated for the record. At that time, names of the proposing organizations are recorded on a “solicitation tabulation sheet." The Procurement Office has the authority to waive technicalities, irregularities, and/or abnormalities concerning submissions. Additionally, the Procurement Office may follow up with individual organizations after the qualification closing to obtain additional documents or clarifications when it is in the best interest of the PBA.

Each submittal must state the full name and business address of the supplier. If the supplier is a corporation, the name shall be stated as it appears in the corporate charter. The supplier’s authorized agent must sign the proposal. Unsigned submittals may be rejected. The person signing the submittal must state their title, and if requested by PBA, furnish satisfactory proof of their authority to bind their company in contract.

Improperly identified submittals may be opened, solely for identification, and only by the Procurement Office designee. If a sealed submittal is opened accidentally, the person who opens it should immediately close the envelope and reseal it to the extent possible, sign the envelope, and deliver it to the Procurement Office. The Procurement Office designee should then immediately write on the envelope an explanation of the circumstances of the opening, the date and time of the opening,

and affix their signature. Submittals opened by mistake or for identification purposes must be resealed in the envelope, and no information contained therein can be disclosed prior to the public qualification closing.

Once the submittals are deemed responsive, the evaluation committee member agreement is completed by each committee member and a copy of each responsive submittal is provided to each evaluation committee member. The Procurement Office retains the original submittals that hold the firm's actual signature, and these are kept on file in the Procurement Office. Only the name of the entities that submitted a qualification shall be made public until the evaluation process is completed.

4.4.3.4 RFQu Evaluations

The evaluation process is designed to identify the "most responsive and responsible firm". Only objective and measurable criteria should be used to evaluate the qualifications. The criteria will be selected to determine which organizations are best suited to perform the work based on demonstrated competence and qualifications; the criteria will be identified in the RFQu. Price is not included in the evaluation criteria for RFQus. The evaluation committee should choose at least three potential firms or teams, if possible (i.e., the short list).

4.4.3.5 RFQu Evaluation Committee

An Evaluation Committee may be used to evaluate responses to RFQus. Members of the Evaluation team may be comprised of one or two members of the requesting department, members from other PBA departments, client representative(s), and a Procurement Office designee. Evaluation team members may or may not have knowledge of the service or goods being procured, however, they must be capable of making a fair and unbiased decision based upon the information received. Selection of the members of evaluation teams will be dependent upon complexity of the procurement as well as funding sources.

An example of an evaluation technique is to read each of the qualifications individually, conduct a site survey (where applicable), interview candidates that meet the specification to clarify issues and answer questions, then reconvene the committee for a group discussion before preparing final scores. The final scores may be done either individually or as a group depending upon the guidance of the PBA Procurement Office designee.

Each evaluator shall sign an Evaluation and Selection Committee Member Agreement (See Appendix 3-APP) affirming that neither they nor their immediate family members have any affiliation (financial or otherwise) with the individuals, teams, or firms being evaluated in order to avoid conflicts of interest. This form shall be submitted to the Procurement Office and shall be placed in the RFQ file as part of the official record. No member of the team may divulge any information about the evaluation until the recommended selection is made.

If the "winning" supplier's price exceeds the amount budgeted for that product or service, the Procurement Office may contact the supplier to negotiate with them to lower the price. PBA also reserves the right to negotiate with the supplier(s) regarding other factors within the solicitation that may affect the product or service to be provided under the award.

4.4.3.6. Notification of Top-Ranked Supplier(s)

After approval of the recommendation, the Procurement Office sends correspondence to the firms, including unsuccessful firms, indicating the top-ranked, or short-listed, qualifications. It also will inform the firms that the award is contingent upon a contract resulting from negotiations with the top-ranked supplier; and that, should negotiations not result in a contract, negotiations will commence with the second-ranked supplier, and down the rankings as necessary, until a contract is agreed upon.

4.4.3.7. Finalizing the Terms

The Procurement Office designee will contact the firms on the short-list to discuss the project and the anticipated concepts/scope of work to achieve the desired end product. Visits and tours of the project site may be conducted. Interviews with each of the short-listed firms may be conducted. The firms interviewed are evaluated against the established criteria, and the initial scoring may be revised based on additional information and details provided during the interview process; this could result in a revised ranking of the short-listed firms.

Negotiations are initiated with the most responsive/responsible firm determined by these procedures to finalize the terms of the contract. The selected firm prepares a detailed fee estimate based on the scope of work. The fee proposal is reviewed by the evaluation committee and the Director of Finance. During these negotiations, the Procurement Office designee may seek to lower the cost to PBA, adjust the delivery time, and whatever else is needed to best serve the needs of PBA.

However, the Procurement Office designee cannot significantly alter the requirements and terms set forth in the RFQ, as this is the standard used by each supplier to prepare their response. If a fair and reasonable price is agreed upon, the Procurement Office designee will prepare the contract. If a reasonable price and agreeable terms cannot be negotiated with the most responsive supplier, PBA will terminate the negotiations and may begin negotiations with the next most responsive firm or team.

4.4.3.8. Contract Preparation

PBA Legal Counsel has approved the standard PBA contact Terms and Conditions format. If there are no significant alterations made to the contract Terms and Conditions, then the Procurement Office will prepare the contract for signatures. For most general contracts, PBA's solicitation and the awarded supplier's response are joined through a simple agreement form to bind them into a contract. The agreement form shall note any changes to the standard Terms and Conditions or submitted pricing. A New Contract Form is submitted with the agreement to collect signatures for approval. Typically, the signatures required are the Procurement Office designee's, the Director of the user department, the Director of Finance, and the PBA Administrator/CEO who also signs the contract(s).

4.4.3.9. Public Record

When the Intent(s) to Award is issued, it becomes a matter of public record, along with the list of proposers, information about the evaluation process and names of the Evaluation Committee.

4.4.4. Supplier/Public Notification

To promote maximum competition when publishing a solicitation, the Procurement Office utilizes software to send automated emails to those suppliers who are registered with the PBA as providing the solicited goods and/or services. The Procurement Office will also post an advertisement in the local paper and may send notice to prospective suppliers as a secondary means of notification. However, the primary means of public notification is the PBA's procurement website, located at www.ktnpba.org under Doing Business with PBA, and it is the sole responsibility of all potential suppliers to view the PBA's website to determine whether solicitations have been published for which they are interested in participating.

Suppliers are invited to visit the website routinely to see if any posted documents are projects for which they would be interested in submitting a response. A supplier's general or standing request for notice for all PBA solicitations of a given type shall not suffice as a request for a specific IFB/RFP/RFQ and shall create no obligation for PBA. Mischaracterization of an item to be procured as a good or service shall not constitute an error in procurement if the requirements for various types of solicitations are given in the IFB/RFP/RFQ Contract Matrix (See Appendix 1-APP). (See also Section 6 "Exceptions to Competitive Solicitation".)

Adequate public notice for the solicitations shall be not less than ten (10) calendar days. The notice will include a general description of the items and/or services to be purchased, and where bid forms and specifications may be obtained.

4.4.5. Pre-Bid/Proposal Conference

The submitting department may hold a pre-bid/proposal conference to ensure the scope of work is clear and to answer questions from potential suppliers. A representative from the Procurement Office will chair the conference and ensure the salient points of the meeting are posted as an addendum to the solicitation to ensure all suppliers have access to the same information. The pre-bid/proposal conference may be mandatory. Failure to attend a mandatory pre-bid/proposal meeting is grounds for rejecting a submittal. If such a meeting is mandatory, it will be stated clearly in the solicitation or an addendum.

4.4.6. Addenda

The Procurement Office is the only department within PBA authorized to respond to inquiries from potential suppliers once the solicitation has been released. Departments that receive such questions shall refer the inquiring party to the Procurement Office designee listed as the contact on the solicitation. The only method by which the Procurement Office shall accept questions, requests for clarification, or any form of inquiry from potential suppliers is in writing. In most cases, questions will be received until ten (10) working days prior to the submission deadline date stated in the solicitation; please see the solicitation for the deadline specific to that procurement. The Procurement Office will not answer questions pertaining to the solicitation that are received after this date and time. This is to ensure all potential suppliers have adequate notification of addenda prior to opening/closing of the solicitation.

Once questions are received, the Procurement Office shall work with the requisitioning department to prepare the appropriate response from PBA and shall post the response(s)

in the form of an addenda to the solicitation; this will be posted on PBA's website for review by all potential suppliers and a notice will be processed through PBA's online portal to all suppliers included in the bidders' list. Additionally, the Procurement Office shall endeavor to contact the inquiring party to notify them that the answer to their question(s) is now posted on the website. However, it is ultimately the sole responsibility of all potential suppliers to determine whether addenda have been published pertaining to the solicitation in which they are interested.

In cases where either before or after receipt of a response, PBA modifies the scope or the requirement of the solicitation, the Procurement Office may issue a written addendum to allow all offerors an opportunity to respond to the revised solicitation. In compliance with T.C.A. §12-4-113, no addenda will be issued less than 48 hours prior to the deadline for submittals, excluding weekends and legal holidays. The exception would be addenda to extend the submittal deadline.

4.4.7 Award

After all proposals/bids have been reviewed and evaluated, the Procurement designee will issue an Intent to Award or multiple Intents to Award in the case of a multiple award solicitation and any notices of unsuccessful proposal/bid. The Intent(s) to Award will serve as notification to the successful supplier(s) and require the supplier's signature to accept the award and move forward with the award process. The notice of unsuccessful proposal/bid serves as notice to any unsuccessful supplier that they will not be awarded a contract or PO as a result of their solicitation response. Upon this notice, a supplier may ask for a debrief to understand why the proposal/bid was unsuccessful. After the Intent(s) to Award are issued, the Procurement Designee will wait seven (7) days to allow time to receive any protests to the award.

4.4.8. Solicitation Cancellations

Each solicitation will state the solicitation may be cancelled if deemed necessary or appropriate by the Procurement Office. The issuance of the solicitation does not compel PBA to award a PO or contract. The Procurement Office designee shall determine whether to cancel a solicitation. Cancellation may be executed in a non-biased manner for any reason deemed appropriate by the Procurement Office designee, including without limitation the following:

- PBA no longer requires the goods and/or services.

- PBA can no longer fund the procurement.
- The proposed amendments to the solicitation significantly alter the nature of the solicitation, and it is best to issue a new solicitation.
- Ambiguous or otherwise inadequate specifications were used.
- The solicitation did not provide for consideration of all factors of significance to PBA.
- It is determined that specifications were defined so as to limit competition.
- Prices exceed available budgeted funds, and it would not be appropriate to adjust quantities.
- All acceptable responses contain unreasonable prices.
- All responsive suppliers and PBA cannot come to an agreement regarding the stated Terms and Conditions.
- It has been determined that communication pertaining to the solicitation has occurred between a supplier and a PBA employee other than the Procurement Office designee.

If cancelled prior to the submission deadline, all responses will remain sealed and become part of the permanent file. Notice of solicitation cancellation shall be posted on the PBA website and notice of cancellation will be sent using PBA's online portal to suppliers included in the bidders' list.

4.4.9. Construction Procurement

Construction contracting requires special steps and skills in the procurement process. An RFP will be issued to prequalify contractors to provide construction services. Projects involving the construction of buildings or improvements not involving federal, state or other grant funds, will either (a) be bid out to the prequalified contractors who have been awarded a term contract for construction services or (b) be assigned to one of the prequalified contractors who have been awarded a term contract for construction services, or (c) be bid out pursuant to a solicitation issued by PBA. Construction procurements involving federal, state, or other grant funds, regardless of the amount of funds involved, must, unless otherwise specified or permitted by the funding source,

(a) be bid out to the prequalified contractors who have been awarded a term contract for construction services, or (b) be bid out pursuant to a solicitation issued by PBA. All construction-related projects estimated to equal or exceed $50,000 in value require a stamped set of drawings and specifications from a properly licensed architect, landscape architect, or engineer. Construction projects estimated to cost less than $50,000 may not require said stamped drawings and specifications. Among the topics that a construction-related bid should cover are:

- Instructions to bidders consisting of: definitions; bidding procedures; examination of bids; substitution policy; and rejection of bids;

- General Contract Conditions consisting of: contract documents, architect; owner; contractor; subcontractors; miscellaneous provisions; time; payments and completion; protection of persons and property; insurance; changes in work; correction of work; and termination of the contract; and

- Other sub-topics such as: PBA or client owned or furnished equipment; labor related regulations; site conditions; rules covering acceptance of work; contractor responsibilities and rights; list of specifications; method of pricing; tax exemption status of the PBA; and licensure and certification requirements.

Construction firm submittal should include the following:

- Bid Envelope Cover (Licensure information covering all suppliers and subcontractors);

- Pricing; and

- Latest financial statements (profit & loss along with balance sheet for last two years), if requested.

If the apparent low bidder is qualified for the type of work to be performed, and all other aspects of the firm's background are satisfactory, the firm may be invited to a pre-award meeting. At this meeting, key personnel from the contracting party and key personnel from PBA will review all aspects of the scope of work, terms, and conditions to assure mutual understanding.

4.4.9.1. Design-Build Projects

PBA may also employ the "Design-build" process. The Design-build process is one in which the winning submitter is responsible for both the project's design and construction.

4.4.9.2 Construction Manager at Risk

Construction Manager at Risk (CMAR) is any contractor that assumes the risk for construction, rehabilitation, alteration or repair of a facility, through Guaranteed Maximum Price (GMP) and consults with the Owner during and after design. PBA and the construction manager will negotiate a guaranteed maximum price (GMP) during the design phase and the construction manager will be responsible for any costs that exceed that amount.

In CMAR, PBA hires a licensed professional Engineer or Architect (Design Consultant) to represent PBA for the life of a project and serve as advocate for the PBA. The Design Consultant shall be selected through an RFQ and can be selected before or concurrently with CMAR, but may not serve as CMAR under the same contract. CMAR must be selected using a one or two-step selection process. In the one-step process, PBA requests qualifications as well as the offerors proposed fees and prices for fulfilling its general conditions. In using a two-step process, PBA may not request fees or prices in step #1 and, based solely on qualifications through the use of an RFQ, shortlist the respondents (usually for interviews) to no more than 5. Proposed fees and prices for fulfilling general conditions obligations would be provided in the second step of the two-step process.

The overall project scope should be reasonably well defined in a detailed solicitation. The selection criteria must be published in solicitation. Detailed designs are not required as part of the selection criteria.

Generally, CMAR is used for projects having the following characteristics:

- A complex project difficult to define or subject to change.
- Schedule sensitive, fast tracking desirable.
- Tight budget, sensitive financial controls.
- Builder-selection flexibility.
- PBA's interaction in the overall project process desirable.
- Better risk management is required.

If using CMAR for federally funded projects, compliance with 2 C.F.R. §§ 200.318 – 200.327 must be ensured. Certain CMAR procedures may be inconsistent with the federal rules (or standards), thus the PBA employee managing the project utilizing these funds must ensure CMAR is the appropriate method. If unsure, the PBA employee should consult with the Procurement Office.

4.4.9.3 Fixed-Price

Fixed-price types of construction contracts provide for a firm price, or in appropriate cases, an adjustable price. Fixed-price contracts providing for an adjustable price may include a ceiling price, target price (including target cost), or both. Unless otherwise specified in the contract, the ceiling price or target price is subject to adjustment only by operation of contract clauses providing for equitable adjustment or other revision of the contract price under stated circumstances. Time-and-materials contracts and labor-hour contracts are not fixed-price contracts.

4.4.9.4. Bonds in Construction Procurement

In the solicitation of construction services, a bid bond may be required in which case such bond shall be provided by a surety company authorized to conduct business in Tennessee. Each bid must contain a bid bond equaling five percent (5%) of the contract price when the contract price equals $100,000 or more. Failure to submit a bid bond when required may result in rejection of the bid.

4.4.9.5. Contract Performance and Payment Bonds

Performance and payment bonds, executed by a surety company authorized to do business in Tennessee in an amount equal to one hundred percent (100%) of the contract price, are required for all construction contracts that are equal to or greater than $100,000 in value. The successful contractor is required to submit such bonds to PBA, when required, before construction commences. Both bonds will be increased in an amount equal to the revision if the price of the project increases through change orders or amendments.

4.4.10. Term Contracts

Such materials, supplies or services, which are consistently needed for the operation of PBA departments will be procured using the formal solicitation procedure. Responses

will be received and evaluated as noted for the solicitation process utilized. The details for each solicitation process are contained within the Procurement Manual. Term contracts are typically established on an initial one-year term with four one-year renewal options for a total of five years.

4.5. Competitive Negotiation

A contract may be entered into by competitive negotiation only in cases when it is not practical for PBA to obtain needed goods and/or services by the competitive solicitation process. This process is to attempt to solicit bids from at least three providers and begin negotiations with the lowest bidder. Complete documentation of the solicitation process and negotiations must be maintained, including the reasons for pursuing this process.

Competitive negotiation may be appropriate when one of the following is true:

- Emergency procurements are necessary and there is no time for the normal procurement process;
- No acceptable proposals were received during the RFP process;
- Rates payable for the services are regulated by law; or
- The estimated price of the request is below $10,000.

4.6. Tie Breaker Process

4.6.1. Tied Solicitations

A tie exists when two or more suppliers offer goods and/or services that meet all specifications, terms, and conditions at identical prices, including cash discounts offered and any other value-based factors. A tie for quotes of bids may be broken by the following methods, in descending order of preference:

- Life Cycle Costing techniques to determine the lifetime cost of the item from each supplier. An item that is less expensive over its lifetime will be given preference.
- Delivery factors such as faster lead times, schedules, and cost.

- If a supplier is a local business. If either supplier was local or if one supplier was in the state of Tennessee and the other one was not, the award can be made to the supplier having local ties.

- By publicly witnessed drawing of lots or coin toss, witnessed by both the requesting department and a representative from the Procurement Office, and properly documented.

In lieu of these methods, the Procurement Office designee may opt to reject all responses and re-solicit the item.

4.6.2. Tied Proposal Evaluation Scores

In the event a proposal evaluation process results in two or more proposals receiving evaluation scores that tie for the rank of highest score, PBA shall request best and final cost proposals from only those proposers with scores that tie. PBA will then evaluate the best/final proposals from the tied firms to make a selection.

4.7. Single Solicitation Response

Should PBA receive only one response from a solicitation the sole respondent will be awarded the procurement as long as:

- The price is fair, reasonable, and consistent with current market conditions as determined by the Procurement Office;

- There is no hint of collusion among the suppliers; and

- There were no inhibiting factors that limited participation of potential suppliers.

4.8. Time Sensitive Procurements

It is in the best interest of PBA to pre-plan procurements to allow sufficient lead time for purchases. If a requirement is to be formally solicited, departments should do their best to allow at least a twenty-one (21) day lead-time. For non-solicited items a similar lead-time is suggested. However, occasionally departments will need a rush order, yet the order is not a true “emergency”. In these cases, the Procurement Office will expedite the process as much as possible. A phone call is also helpful to make clear the reason to expedite and to draw attention to the situation.

4.9. Best Value vs. Best Price for Bids and Proposals

The Procurement Office can authorize award based on "best value" to PBA, as defined in the attached glossary, as opposed to lowest price on a bid or proposal. Examples of factors that may reflect negatively on a company seeking to enter into a new agreement with PBA include, but are not limited to the following:

- A history of insurance shortfalls, lapses, or other inadequacies;
- A demonstrated lack of good faith in resolving prior contract disputes short of litigation;
- Past failure to meet stated specifications;
- Delivery of poor service or poor quality in the past;
- Failure to make timely delivery of goods or services in past agreements with PBA; or
- A history of seeking numerous (more than three) change orders or contract amendments from PBA when such change orders or contract amendments have been denied in the past.

PBA is under no obligation to have notified such suppliers of poor past performance prior to receiving their bids, quotes, or proposals. However, the Procurement Office designee must document such rationale, based on departmental input, and include this in the solicitation file.

4.10. Bonds

PBA often requires bonds as part of the procurement process for the protection of the taxpayers against bad faith or default on the part of suppliers and contractors. In a solicitation for construction services, a bid bond or other form of bid guarantee satisfactory to PBA is required and such a bond shall be provided by a surety company authorized to conduct business in Tennessee. Failure to submit a bid bond when the IFB/RFP requires one may result in rejection of the submittal.

A reasonable amount of time will be permitted for suppliers to obtain these bonds (usually ten days). Performance and Payment Bonds are required for all construction contracts that are equal to or greater than $100,000 in value. PBA reserves the right to require

Performance and Payment Bonds in solicitations less than this amount should it be in the best interests of PBA. Both bonds will be increased as the price of the project increases through change orders or amendments in an amount equivalent to the change or amendment.

There are three (3) types of Bonds.

4.10.1. Bid Bond

Often required on bids for services and frequently required on construction bids. A bid bond equates to 5% of the dollar amount of the bid. The bid bond has three key purposes:

- To ensure the bid or proposal will not be withdrawn for a period specified in the solicitation;
- To ensure the supplier will execute a written contract; and
- To ensure the supplier will furnish such bonds, insurance certificates, etc., as required by PBA in the solicitation.

4.10.2. Performance Bond

A Performance Bond guarantees that the successful contractor will properly complete and meet the standards and specifications of the contract. The Bond must be executed by a surety company authorized to do business in Tennessee, which is acceptable to PBA. If the contractor fails to meet the conditions of the contract, then the performance bond may be forfeited. As per PBA's Procurement Code, performance bonds are set at one hundred percent (100%) of the contract price.

4.10.3. Payment Bond

A Payment Bond is required in the amount of 100% of the contract price executed by a surety company authorized to do business in Tennessee, which is acceptable to PBA. The Payment Bond is a surety against a general or main contractor who also employs sub-contractors to perform services and provide materials in carrying out a portion of the scope of the contract to make appropriate payments to those subcontractors.

5. Submittal Withdrawals, Revisions, and Rejections

Before the solicitation due date, a supplier may withdraw a submittal entirely and/or submit a substitute submittal. However, the supplier must clearly identify the solicitation to prevent confusion. After the solicitation due date, a supplier may withdraw a submittal only where there is obvious clerical error such as a misplaced decimal point, or when enforcement of the submittal would impose unconscionable hardship due to an error resulting in a quotation substantially below the other submittals received. Withdrawal is considered only upon written request with acceptable justification.

In cases of errors in the computation of prices for multiple items, the unit price governs. If the Procurement Office determines that a supplier provided information which they knew, or should have known, was materially incorrect the submittal may be rejected.

A submittal may not be revised after opening. However, the Procurement Office may clarify the contents of the submittal when the documentation is ambiguous or contains clearly discernable errors. Additionally, after evaluation is complete and the successful supplier is selected, PBA may negotiate to alter the submittal in a way favorable to PBA. For example, prices may be reduced, time requirements may be revised, and the submittal may be revised to supply omitted terms, etc. In no event shall negotiations amend the solicitation such that the apparent successful supplier no longer offers the best submittal. Submittals that restrict the rights of PBA are considered non-responsive, and the submittal may be rejected.

Submittals may be rejected for the following reasons, among others:

- The cost exceeds the requesting department's budgeted funds allocated for the product and/or service;
- Gross errors exist in the submittal;
- The need for the procurement no longer exists;
- Funds are unavailable;
- Submittal fails to meet specifications;
- A determination is made that the goods and/or services can be more economically delivered through an agreement with another government agency; or

- A determination is made that proceeding with the procurement is detrimental to the best interests of PBA.

The reason(s) for the rejection of a submittal or submittals must be documented and approved by the Procurement Office designee and a letter sent to the affected supplier(s) informing them of this decision.

Said letter is considered to be "sent" when it is posted on the PBA website or when it is sent to the supplier's email on file with PBA. Submission of a response shall not create rights, interests, or claims of entitlement for any supplier, including the successful supplier. Notwithstanding any action or agreement to the contrary, no such right, interest, or claim shall exist unless a purchase order or contract has been issued or a contract is fully executed.

All submittals can be rejected by the Procurement Office designee or PBA Administrator/CEO when it is deemed to be in the best interest of PBA.

6. Exceptions to Competitive Solicitation

The following transactions generally require preparation of a requisition for tracking purchase types but are otherwise exempt from the competitive solicitation process.

- Purchases under $25,000.00
- Utilities
- Emergency purchases
- Sole source procurements
- Proprietary procurements
- Cooperative Purchases
- Piggybacking
- Purchases from other government agencies
- Purchase of fuel products
- Any exception permitted by a resolution of the PBA Board.

6.1. Utilities

Solicitations are not required for services for which the rate of price is fixed by the public authority authorized by law to fix such rates or prices. The Procurement Office shall purchase or contract for all telephone, telegraph, electric light, gas, power, postal, and other services for which a rate for the use thereof has been established by a public authority in such manner as the Procurement Office designee deems to be in the best interests of PBA.

6.2. Emergency Purchases

The PBA Administrator/CEO is the sole authorizer of declaring an emergency and thus the ability to direct the Procurement Office to initiate emergency protocols. Proper authorization must be secured before proceeding. Any order, agreement, or obligation entered into without this approval is null and void, and no person shall have any claim or demand whatsoever against PBA. This section applies to purchases that would otherwise require three quotes or a competitive solicitation.

6.2.1. Description of Emergency Purchases

An Emergency Purchase may occur when there is a serious and unexpected situation that poses an immediate threat to public health, welfare, safety, or other similar reasons that may be proclaimed by PBA. The existence of such conditions creates an immediate and serious need to secure goods and/or services to carry out an emergency response. In such situations, competition should be engaged when practicable, but this policy recognizes that some emergencies are such that the exigencies of the situation may not allow for a competitive procurement.

6.2.2. Conditions of Use for Emergency Purchases

Conditions of use for an Emergency Purchase may include, by way of example only:

- Natural disasters – rains, flooding, lightning damage, fire, earthquakes, blizzards, ice storms, etc.
- Functional problems such as major plumbing breakage, HVAC, or electrical malfunction
- Terrorist or conventional attacks or other acts of war

- Significant civil unrest

- Other occurrences that interrupt necessary functions of PBA or its clients, or threaten public safety or welfare as determined by the PBA Administrator/CEO

- Large-scale outbreak of disease

The PBA Administrator/CEO will use their judgment as to the justification of the emergency purchase. An Emergency Purchase does not require the declaration of a state of emergency.

6.2.3. Emergency Purchase Approval Process

The PBA Administrator/CEO may initially grant approval for an Emergency Purchase orally, but a written statement must follow to accompany the actual purchase documentation. Generally, the written statement should be provided to the Procurement Office within three (3) calendar days.

Emergency procurements are exempt from competitive solicitation if sufficient funds are available to cover the cost and necessary approvals have been acquired. The signature of the PBA Administrator/CEO provides authorization for an emergency expenditure. True emergencies have no dollar limits. Once emergency authorization has been given, then either of the following two procedures may be used.

6.2.3.1. Emergency Purchase Procedure #1

1. The purchase is made with the supplier who can provide the equipment, services and/or material in the timeframe as required. Due to the practice of some suppliers to engage in "price gouging" during emergencies, departments should take special care to work with reputable suppliers with set prices. When possible, orders should be placed with suppliers who have provided PBA with satisfactory parts and/or service in the past. Cost escalations are a normal result of supply and demand scenarios like emergencies, but good procurement practices are critical during and after the emergency has been eliminated.

2. Notify the Procurement Office of the emergency and the procurement as soon as time allows. The department sends all documentation about the purchase

along with the invoice and a brief written description explaining the nature of the emergency to the Procurement Office. All documents must be submitted to the Procurement Office before the supplier is paid. Documentation should be submitted within a maximum of 3 days but within one day is more desirable as these documents may be hard to locate as more time goes by and other critical tasks are being handled.

6.2.3.2. Emergency Purchase Procedure #2

1. The PBA Administrator/CEO notifies the Procurement Office designee of the emergency and the need. The Procurement Office designee contacts the supplier(s) and expedites the procurement through non-competitive negotiations. In some scenarios, bids by telephone may be used instead of sealed bids to meet the time and material requirements for the purchase.

2. Suppliers shall furnish sales tickets, delivery slips, invoices, etc. for the services and/or supplies rendered along with terms of the transactions, indicating price and other necessary data for clarity.

3. While there is no dollar limit placed on procurements under emergency conditions, the Procurement Office designee must document each purchase and keep the PBA Administrator/CEO abreast of what is being bought on a daily basis, in an appropriate manner for the circumstance, to facilitate accountability and proper stewardship of funds. Purchases of specific materials, supplies, equipment, and/or services may be made in the open market via spot market purchasing for immediate delivery to meet emergency needs of PBA.

4. All emergency purchases must be approved by the PBA Administrator/CEO (which may occur after the actual purchase has taken place).

6.2.4. Emergency Contract Requests

During emergency conditions it may be necessary to purchase emergency goods and/or services over a period of time where a contract makes the most sense. In such instances, the following procedure will be used:

1. The Procurement Office designee is notified by the PBA Administrator/CEO requesting that PBA enter into a contract on a "non-competitive" basis due to an emergency situation. It is always best to state in writing the requested

service and/or product, the estimated cost, the time period (generally not to exceed five months) along with a description of the emergency situation.

2. The Procurement Office designee may negotiate terms and prepare documents to enter into the requested contract for services and/or goods. As services and/or goods are rendered, invoices will be processed as work is completed or as the terms of the contract dictate. Payments must also be made in accordance with the agreement.

6.2.5. Emergency Purchase Disapproval

If an emergency purchase authorization is denied, the PBA Administrator/CEO will advise the Procurement Office as to the appropriate procedure to secure the goods and/or services requested.

6.3. Sole Source Procurements

6.3.1. Written Justification Required

A sole source procurement is one where only one supplier possesses the unique and singularly available capability to meet the requirement of the solicitation, such as technical qualifications, ability to deliver at a particular time, a situation where a particular supplier or person is identified as the only qualified source reasonably available to the requisitioning authority, or when purchasing from only one source is clearly in the best interests of PBA. The department requesting the sole source procurement must provide the Procurement Office designee with justification in writing. The memorandum must explain why the department believes there is sufficient rationale for procuring the items and/or services as a sole source utilizing one or more of the factors described in the following paragraph. While not an exhaustive list, justifications for sole source procurements include:

- Only one company has the good or service that will meet PBA's needs;
- Compatibility of existing equipment or products is an issue;
- The goods and/or service is covered by one or more patents or copyrights;
- Continuity of results is dependent upon the specific goods and/or service;

- The supplier possesses exclusive or predominant capabilities for the goods and/or service at issue that are not obtainable from similar suppliers;

- An unusual or compelling urgency exists;

- Users have extensive training or experience, and use of similar goods and/or services would require significant reorientation and training; or

- The cost of conversion, including but not limited to, disruption, re-training, and replacement precludes competitive solicitation.

6.3.2. Sole Source Procurement Approval Process

The Procurement Office designee shall approve or disapprove the sole source justification memo based on the criteria below. In the event of a dispute between the director of the requesting department and the Procurement Office designee, the PBA Administrator/CEO shall make the final ruling.

Upon approval, the sole source procurement may be made without following competitive procurement procedures. A written quote should be obtained from the sole source supplier of goods and/or services and a purchase order will be issued without utilizing a competitive procurement method. The Procurement Office designee shall report approved Sole Source Procurements to the Director of Finance prior to the contract being fully executed. Documents regarding these purchases must follow the same retainage schedule that applies to competitive solicitation files. Sole source procurements shall be made by contract in accordance with applicable procurement laws and this Manual.

Sole Source Procurements may be valid for the same five-year timeframe as term contracts. In other words, at least every five years the Procurement Office designee must determine whether a sole source procurement is still valid. If it is determined that the sole source procurement is no longer valid, then a competitive solicitation will be issued.

6.3.3. Sole Source Approval Criteria

The Procurement Office designee in approving the use of a sole source method of procurement shall consider the following:

- Whether the item is a proprietary product;

- Whether the supplier possesses exclusive or predominant capabilities or the item or service contains features providing a superior utility not obtainable from similar suppliers;

- Whether the product and/or service is unique and available from only one source;

- Whether the department requirements can be modified so that competitive products and/or services may be used;

- Whether items must be interchangeable or compatible with in-place items;

- Whether the cost of conversion, including but not limited to, disruption, re-training, and replacement precludes competitive solicitation;

- Whether the product is to be used in an instructional setting and the intent is to provide instruction on the specific product or diversity of products; and

- Other justifications that are clearly in the best interests of PBA and are approved by the Procurement Office designee.

6.4. Proprietary Procurements

A Proprietary Procurement is a procurement where competition is restricted to authorized distributors of certain goods or services.

6.4.1. Conditions of Use for Proprietary Procurement

The circumstances justifying a proprietary procurement include:

- Compatibility of existing equipment or products is at issue;

- The good and/or service is covered by one or more patents or copyrights;

- Continuity of results is dependent upon the proprietary good and/or service at issue; or

- Users have extensive training or experience and use of alternative goods or services would require significant reorientation and training.

6.4.2. Proprietary Procurement Approval Process

All contract requests for Proprietary Procurements, with accompanied justification and circumstances for limiting competition to a select group of distributors or suppliers, must be submitted to the Procurement Office designee for approval. All other approvals for the selected procurement method still apply. Purchases of proprietary products and/or services require approval by the Procurement Office designee, Director of Finance, and the PBA Administrator/CEO if the purchase exceeds established thresholds.

6.5. Cooperative Purchasing Agreements

Under T.C.A. § 12-3-1205, "[a]ny municipality, county, utility district, or other local government of the state may participate in, sponsor, conduct or administer a cooperative purchasing agreement for the procurement of any supplies, services or construction with one (1) or more other local governments in accordance with an agreement entered into between the participants. Such cooperative purchasing may include, but is not limited to, joint or multi-party contracts between local governments. Where the participants in a joint or multi-party contract are required to advertise and receive bids, it shall be sufficient for those purposes that the purchasing entity comply only with its own purchasing requirements."

The PBA Procurement Office designee has the sole responsibility to evaluate any cooperative agreement to see if their procedures meet PBA's Purchasing requirements. This must be done prior to any purchase made through such a cooperative.

PBA may use certain Federal (GSA Schedule 84 and 70) contracts, national cooperatives, statewide contracts or other local agency contracts that have been competitively solicited and their process has been evaluated by the Procurement Office designee. Files are established with current contract documentation by the Procurement Office. Although certain contracts are legally an option, the Procurement Office designee may prefer to issue a solicitation for the goods and/or services. Reasons may be but are not limited to:

- The use excludes a local, capable supplier(s) who is willing to respond to a solicitation.

- Available contract pricing is deemed not representative of the local market values.

- PBA's use of the contract may require terms and conditions that are not acceptable when utilizing the cooperative agreement.

6.6. Purchase of Secondhand Articles or Equipment

As authorized by T.C.A. § 12-3-1202, notwithstanding any charter, private act, or general law requirements, PBA may purchase used or secondhand articles consisting of goods, equipment, materials, supplies, or commodities from any federal, state, or local governmental unit or agency without public advertisement and competitive soliciting. Further, PBA may purchase used or secondhand articles consisting of goods, equipment, materials, supplies, or commodities from any private individual or entity without public advertisement and competitive soliciting as long as the purchasing government documents the general range of value of the purchased item through a listing in a nationally recognized publication or through an appraisal by a licensed appraiser, and the price is not more than five percent (5%) higher than the highest value of the documented range.

7. Fundamental Procurement Information

7.1. Procurement Mechanisms

7.1.1. Standard Purchase Orders

A requisition is submitted by a requisitioner using PBA's online platform. The requisition then goes through an approval path based on the total amount. A standard Purchase Order ("PO") is issued as a binding agreement after the Procurement Office has verified the supplier and the purchase meets all requirements. Departments must plan for required purchases and submit requisitions in time to allow the Procurement Office to secure competitive solicitations (if necessary), verify the supplier has all documentation in place, and to negotiate any terms and conditions. Occasionally, it will be necessary for the Procurement Office to modify previously issued POs. When changes are made to a PO, the Procurement Office must complete the necessary steps in order to make the required changes in the PBA's online platform.

The Purchase Order can be faxed or emailed when generated and addressed to the selected supplier. The issue date, point of delivery, description, quantity, unit price, and a total price of the equipment, service, or material is contained within the PO. The acceptance of a PO by the supplier is subject to standard terms and conditions of PBA.

Any proposed change to any PO must be submitted to the Procurement Office. A change order will not be valid until such request has been submitted and approved. The supplier must include the PO and/or contract number as applicable on all invoices submitted for payment. A PO may be executed by following this path below:

- PBA employee identifies what product or service is needed.

- PBA employee identifies a supplier who can provide product or service. If the employee does not know where to source the product or service, the employee contacts the Procurement Office and provides a scope or set of specifications and the Procurement Office assists in finding a source and securing a price.

- PBA employee confirms the supplier is registered to do business with PBA. If the supplier is not registered, the employee contacts the Procurement Office for further assistance.

- The PBA employee enters a requisition through PBA's e-procurement software which identifies the product, quantity, building/budget to charge to, per item price and the total price.

- The requisition is routed through the e-procurement software to an authorized approver. Upon approval by all required approvers (based on dollar amount of the requisition), the requisition is routed to the Procurement Office where it will be converted into a PO and sent to the supplier (via fax or email).

- Upon picking up/receiving the item(s) or the completion of the service work for which the PO was written, the employee must receive the item(s)/work in PBA's e-procurement software within five (5) calendar days of receipt. Employees should enter the actual date of receipt in the e-procurement software. Employees are cautioned the PBA Finance Department may shorten the time for receiving at the end of the fiscal year to facilitate processing invoices for the year end close.

- The supplier sends an invoice for the item(s) or service(s) rendered and PBA Accounts Payable matches the PO and receipt to the invoice and codes it for payment.

7.1.2. Purchasing Cards

Purchasing cards (P-Card) are issued at the request of Department Directors for employees who have responsibilities that require them to make purchases to complete their jobs. Purchases may be made using PBA's P-Cards in accordance with the PBA P-Card Policy and the Cardholder Agreement (See Appendices 5-APP and 6-APP). P-Card purchases are not to be used to circumvent or avoid following PBA procurement rules and regulations. P-Card users are required to sign a Purchasing Card Cardholder Agreement (See Appendix 6-APP) before being issued a card. Violations of the Purchasing Card Agreement may lead to discipline up to and including termination. Audits are conducted routinely to ensure standard procurement rules are followed and that inappropriate purchases (e.g., split purchases) are not made.

All non-PBA related purchases and certain types of purchases are prohibited, such as those for personal care services, ATMs, entertainment providers, financial services, professional services, pawnshops, and liquor stores. Other limitations on P-Card purchases will be as defined by the PBA Director of Finance.

P-Card users are encouraged to direct their purchases toward small businesses whenever appropriate.

Charges for P-Cards are paid on a monthly basis, by the due date to avoid late charges.

Purchases are exempt from state and local sales taxes. An exemption authorization card is provided to each cardholder. Employees who need a PBA Tax Exempt Form should contact the Procurement Office.

P-Cards have a monthly credit limit. Credit limits vary and are subject to change. The Finance Department may adjust limits at the request of a cardholder's Department Director or at the discretion of the Director of Finance.

For more detailed information regarding PBA's P-Card program, please refer to the *Purchasing Card Program Policies and Procedures* (see Appendix 5-APP).

7.1.3. State Contracts

The State of Tennessee has contracts for many items, and local governments can purchase from these contracts if they so desire. PBA is not required to purchase from a state contract. If utilizing a state contract, the PO should be issued to the supplier

specified on the state contract and a notation made that the purchase is through a state contract. The supplier's invoice must be carefully examined to ensure that PBA is charged at the state rate.

7.2. Computer Software and Hardware

All software and hardware purchases are quoted and approved by the Telecom & Information Systems Department, as well as other items which may require functional support. The Procurement Office will not process requisitions for those items from any other department without a quote approved by the Telecom & Information Systems Department. The intent is to maintain uniformity of quality and functionality, as well as compatibility, throughout PBA.

7.2.1. Software as a Service

Software as a Service ("SaaS") shall be treated as a term license for software or services, not as a Subscription as defined in this manual. A SaaS license may use a "subscription schedule" as payment methodology, but this does not make it a "Subscription" as defined by PBA. All SaaS agreements shall comply with the rules, policies, and procedures of the Procurement Office and Telecom & Information Systems Department.

7.3. Subscriptions

Subscriptions are meant to be used for procurements that do not require standard contracting procedures. In distinguishing between a Subscription and SaaS, the Procurement Office designee should use their best judgment. The use of a "subscription schedule" as the payment methodology is not determinative of a Subscription.

7.4. Acquisition of Real Property

All property contracts, lease, loan, deed, or other agreement forms must be approved by the PBA Legal Counsel, PBA Administrator/CEO, and PBA Board and be funded prior to proceeding with the acquisition process.

7.5. Reimbursable Projects

Reimbursable projects are projects for which funding does not originate from PBA's budget, but for which PBA will be reimbursed for authorized project expenditures. These projects are typically projects that have first been initiated by a client (e.g. City of

Knoxville, Tennessee or Knox County, Tennessee). The client makes the request to the PBA designee that PBA perform the project and provides a necessary scope. Upon receipt of the request and scope, PBA begins the process of collecting quotes for the project. Normal PBA procurement procedures must be followed. Once a supplier and best price selection has been found, PBA sends the authorizing client and/or the appropriate finance department a Project Assignment Form (See Appendix 9-APP) for signature and approval to proceed with the project as defined. Upon completion of the project, the contractor sends an invoice to PBA who may either pay it prior to seeking reimbursement from the client or may forward it to the client for reimbursement and hold the invoice for payment until reimbursement is received.

7.6. Life Cycle Costing

Life Cycle Costing is a concept that can be utilized to determine the total cost of an item over its useable lifetime. Although life cycle costing has been primarily used for capital items, it is becoming more common to utilize these principles for other purchases. With the current market constraints and in order to be good stewards of taxpayer funds, it is best practice to examine the total cost of owning and operating an item.

Life cycle costing includes factors such as:

- The initial purchase price - the cost to obtain the item;
- The life expectancy of the item - the useful life of the item;
- Output - the level of service will the item will provide;
- Maintenance - the level of maintenance that will be required to keep the item in proper operating condition;
- Consumption - analysis of energy requirements of the item to determine the amount of energy required to operate it;
- Disposal Value - the item’s revenue in trade-in value or scrap at the end of its life cycle; and
- Complexity of Operation - a review of the amount of training and skill level required to operate the equipment.

To illustrate Life Cycle Costing the National Institute of Governmental Purchasing provides the following example:

In the purchase of vehicles, a jurisdiction decides that it will consider the total costs of owning and operating the vehicles. This includes purchase price, cost of upkeep, and operating costs. The jurisdiction develops the following formula for bid evaluation and includes it in the Invitation for Bid:

Life Cycle Costing = C+ (a/b x d) where:
LCC = total cost
C = initial cost
a = anticipated life of vehicle in miles
b = E.P.A. miles per gallon rating
d = cost per gallon of gasoline

The anticipated life of the vehicle (a) and the cost per year (d) are constants assigned by the jurisdiction. For example:

a=50,000 miles
d=$2.00 per gallon

If a bidder submits a price of $25,000 on a vehicle rated by the Environmental Protection Agency ("EPA") as averaging 20 miles per gallon, then:

C=$25,000
b=20 miles per gallon
Using the proceeding figures, the evaluation of the bid would be:
LCC = C + (a/b x d)
= 25,000 + (50,000/20 x 2.00)
= 25,000 + (2,500 x 2.00)
= 25,000 + 5,000
= $30,000 (for the life of the car)

Thus, the evaluated bid price and the figure considered in making the award would be $30,000.

Other factors, such as repair costs, maintenance costs, insurance premiums, down time, and theft potential could also be included in the formula. The formula provided is only an example of a formula that could be used.

Life Cycle costing is not performed on every purchase nor, should it be. However, if it is properly applied and calculated, life cycle costing can provide significant long-term savings for PBA and its clients.

7.7. Tax Exemption

PBA is exempt from federal, state, county, and city sales and excise taxes on purchases. The Procurement Office can provide suppliers a tax-exempt form for their records. PBA is responsible for "use taxes" paid by a supplier who is selling a product or service to us. Simply, "use taxes" and "sales taxes" are virtually the same except "who" is doing the purchasing.

If PBA buys a product and installs it, PBA does not pay sales taxes on this purchase. If PBA hires a contractor who buys the product, the contractor, who is not "tax exempt," pays the sales tax, installs the product, and bills PBA adding the equivalent use tax to the grand total. It is illegal for PBA to purchase a product and then give it to the contractor to install to avoid paying taxes. In this case, the contractor is legally responsible for paying the tax.

7.8. Invoice Payments

Invoices will be processed for payment as promptly as possible in order to take full advantage of all discounts allowed. No supplier's invoice will be paid unless supported by a proper PO or other documentation. Special arrangements on payment cycles may be coordinated prior to any contract agreement.

7.9. Federal, State, and Other Grant Funded Purchases

Purchases utilizing funding from state, federal, or other grant sources may contain additional requirements. If a project is partially funded by any federal, state, or other grant dollars, the entire project must be treated as if it was fully funded by that source. Refer to the section on Construction Procurements if the federal, state or other grant funded purchase involves construction of buildings or improvements.

7.9.1. Federal Transit Administration (FTA) Purchases

FTA purchases are made with FTA grant funding that require additional terms and conditions to be met in conjunction with standard PBA purchasing guidelines. FTA purchases are funded by federal grant funds and not through local tax dollars normally provided through the City of Knoxville, Tennessee, Knox County, Tennessee, or PBA

Annual Operating Budgets. FTA grants either follow standard FTA guidelines or may require even more specific guidelines for that particular grant.

A purchase requiring that FTA procurement procedures be followed is a complex procurement. The Procurement Office must be brought in immediately upon discovering a need for such a procurement and should be involved in all project and supplier discussions.

PBA depends upon its clients and the PBA designee to provide the Procurement Office with the required information in order to follow the required purchasing regulations on a procurement-by-procurement basis. FTA Terms and Conditions (See Appendix 7-APP) may be activated for every FTA purchase by the type of project and/or the estimated cost. The client or requesting department must provide the Procurement Office designee with the following information upon the identification of an FTA funded procurement need.

- Copy of completed grant application and award documents
- FTA grant number
- Project budget
- Estimate total spend
- Detailed specification or scope of project
- Desired timeframe for purchase. The requesting department should be aware that this may vary greatly depending upon the scope, type and cost.
- Suggested supplier(s) for the procurement.

The Procurement Office designee is required to complete an Independent Cost Estimate (ICE) form for each purchase above $3,000.00 for non-construction related items and/or services and for purchases above $2,000.00 for construction related items as well. Purchases above $3,000.00 are also required to have three (3) quotes from vendors who are not barred from doing business with the FTA. The Procurement Office designee must determine the type of procurement, must explain how the estimated cost was gathered and must compare the estimate to the actual cost to determine if the purchase price is a fair and reasonable expenditure and note the conclusions on the ICE form (See Appendix 8-APP).

Purchases below $3,000.00 (or construction related purchases below $2,000.00) are considered "micro-purchases" and can be made with any responding supplier who provides a written quote and can provide the item(s) and/or service(s) in the desired timeframe. PBA will send the requesting client a Project Assignment form (See Appendix 9-APP) authorizing PBA to begin the purchasing procedures and ultimately the purchase itself. No FTA purchase should be initiated until the Procurement Office designee has completed the required paperwork and given the release to make the purchase.

Additional information on FTA procurements can be found at:
https://www.transit.dot.gov/funding/procurement/procurement

Suppliers must comply with all FTA requirements whether stated herein or stated in the FTA regulations.

7.10. Items Requiring PBA Board Approval

Approval of the PBA Board is required in the following instances:

- All proposed contracts, excluding construction contracts, costing an amount equal to or greater than $500,000.00;
- All proposed construction contracts costing an amount equal to or greater than $750,000.00;
- Acceptance of grants from the federal and state governments;
- All proposed contracts for the sale or lease of real property of PBA regardless of the dollar value.

7.11. Site Visits

PBA may conduct site visits as part of a pending or future solicitation. Site visits for a pending solicitation may be mandatory or optional based upon the nature of the solicitation. The determination of mandatory attendance at a site visit as a condition of award is solely in the discretion of the Procurement Office designee conducting the solicitation. The Procurement Office designee will consult with the requesting department before making a determination on whether to require attendance at a site visit as a condition of award. Site visits needed to properly evaluate goods and/or services for a pending or future solicitation are allowed subject to the following conditions:

- PBA will not be responsible for the respondent's cost of travel to and from the site visit(s), per diems, or wages.

- Exceptions to this policy may be approved by the Director of Finance. Any exception must be made on a case-by-case basis. If an exception is made, a written determination signed by the Director of Finance shall be included in the solicitation file.

- PBA employees making such site visits will incur and recover travel costs from PBA in accordance with PBA's travel policy.

- No direct reimbursement of individuals by a respondent is permitted.

8. Disadvantaged Business Enterprises (DBEs)

A Disadvantaged Business Enterprise refers to any minority-owned business, woman-owned business, service-disabled veteran-owned business, business owned by persons with disabilities or small business, as defined in the glossary herein (see Section 14). PBA makes every effort to procure goods and services from DBEs whenever possible. PBA actively solicits responses from DBEs to obtain a fair proportion of goods and services from such businesses.

8.1. Criteria and Standards of Eligibility

PBA may adopt rules and regulations establishing criteria and standards to define businesses as minority-owned, woman-owned, and small businesses. Such criteria include, but is not limited to, the number of employees, sales volume, size relative to other similar Tennessee businesses, and total income or annual sales of any business or its affiliates and subsidiaries. Note that the maximum number of employees and the sales volume of a small business under such rules and regulations may vary from industry to industry to reflect the differing characteristics of each particular industry.

8.2. Certification

PBA does not certify businesses as being DBEs. PBA may use other industry accepted third-party certification designations.

8.3. Goal

The goal of PBA is to conduct ten percent (10%) of its business with DBEs.

8.4. Implementation

All PBA departments shall cooperate with the Procurement Office in the implementation of procedures for the identification of DBEs and the monitoring of procurements from them.

All PBA employees involved in the purchase of goods and/or services are asked to actively solicit quotes for equipment, supplies, personal services, professional services, consulting services, and construction contracts from DBEs in order to obtain a fair proportion of procurements from DBEs. Nothing in this part shall be construed as establishing any mandatory quota or "set aside program" with respect to minority-owned, woman-owned, small business or veteran owned businesses.

Actively soliciting quotes means reviewing compiled directories of DBEs, placing notices through electronic media, sending emails, consulting with the Procurement Office, etc. in order to seek out viable DBEs in hopes of gaining a quote.

In the event that a PO is issued to, or a contract is entered into with an entity that would otherwise qualify as a DBE but is owned by or is under the controlling interest of another business that is not a minority-owned, woman-owned, or small business, PBA shall not consider the entity as a minority-owned, woman-owned, or small business.

8.5. DBE Reports

The following report shall be submitted by the Director of Finance:

8.5.1. Disadvantaged Business Annual Report

The Disadvantaged Business Bi-Annual Report consists of transactions with DBEs on a bi-annual basis. The Director of Finance shall report, on or before each February 1 and August 1, to the City of Knoxville, Tennessee (and/or other clients) concerning the awarding of purchases to DBEs and the total value of awards made during the preceding period. The report shall include the number, by category, of DBEs solicited; the number of bids received, by category, from DBEs; and the dollar amount of purchases awarded, by category, to DBEs. For purposes of evaluation, the report shall also indicate the same information for the previous fiscal year.

8.6. Responsibilities of the Procurement Office with regard to DBEs

- Compile and maintain a comprehensive list of DBEs by cooperating with both governmental and private sector entities in locating potential sources for various products and/or services.

- Assist DBEs in complying with PBA procurement and contracting procedures and requirements so they are better able to conduct business with the Public Building Authority.

- Examine RFPs, IFBs, and Requests for Qualifications from various departments for the purchase of materials, supplies, equipment, and/or services to determine which documents offer opportunities for DBEs and to contact them about upcoming opportunities.

- Make recommendations to department requisitioners or any authorized buyers for the simplification of procurement and contract specifications and terms in order to increase opportunities of participation by DBEs (e.g., potentially lowering insurance requirements and reducing the amount of bid bonds).

- Engage in outreach programs and educational opportunities with the regional business community to educate DBEs on how to conduct business with PBA.

- Provide DBEs with information concerning opportunities to bid on products and/or services with PBA.

9. Protest, Stay of Award, and Debarment and Suspension

9.1. Protest and Stay of Award

Occasionally there may be complaints from proposers/bidders that the award process for a solicitation has been unfair in some manner. Any proposer/bidder who claims to be aggrieved in connection with a specific solicitation may pursue the following process for resolution. Proposers/bidders who believe there has been a problem with the process or decisions should contact the Procurement Office designee associated with the solicitation in question. The Procurement Office designee contact information will be listed in the solicitation document. Typically, the Procurement Office designee will be able to explain PBA's rationale for the decision. If the aggrieved proposer/bidder is still not satisfied, the following steps may be taken:

- Notify the Director of Finance, in writing, within seven (7) calendar days after the notification of the award decision has been made. Protests received after seven (7) calendar days will not be considered for review. Additional issues raised by the protesting party after the seven-day period to protest will not be considered as part of the protest.

  NOTE: Verbal complaints and even verbal protests do not constitute a formal protest unless they are received "in writing" within the seven (7) calendar day period.

- The protest must be clearly marked "Protest of Award Decision" on the outside of the envelope if submitting the protest in person or by mail or in the subject of the email if submitting electronically. The written protest should include:

  - The name, address, and phone number of the protestor and the name of the supplier represented;

  - The solicitation name, solicitation number, date, and any other pertinent information;

  - A statement of reason for the protest and the resolution requested;

  - Any supporting documents, exhibits, or evidence to substantiate the protest; and

  - The original signature of the protestor.

The Director of Finance has the authority to resolve the protest. The final determination of the Director of Finance shall be submitted in writing to the protesting party within five (5) days of the receipt of the protest and a copy will be placed in the solicitation folder.

If the protesting party is not satisfied with the Director of Finance's decision, the protester may file an appeal with the PBA Administrator/CEO. Such appeal must be received, in writing, by the PBA Administrator/CEO within three (3) business days from the issuance of the Director of Finance's decision. Appeals received after that time will not be considered by the Administrator/CEO.

The procedure for a protest appeal is as follows:

- The protest appeal must be sealed within an envelope and be clearly marked "Protest Appeal of Award Decision." The written protest should include:

    - The reasoning for the appeal.

    - The original signature of the protesting party. The signature of a protesting party on an appeal constitutes a certificate that to the best of the signer's knowledge and belief (formed after reasonable inquiry) the appeal is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of the existing decision, and that it is not interposed for any improper purpose, such as to harass, limit competition, cause unnecessary delay, or needlessly increase the cost of procurement or litigation. If a request for protest is signed in violation of this section, the protest will be dismissed.

Upon receipt of a protest of a solicitation, award, or proposed award of a contract, a stay of the solicitation, award, or proposed award shall be in effect until the protest is resolved, absent a written determination by the Director of Finance and the PBA Administrator/CEO that continuation of the solicitation process or the award of the contract without delay is necessary to protect substantial interests of PBA.

The PBA Administrator/CEO will review an appeal within five (5) business days from the date it is received, and the protesting party will be notified of the decision in writing. A decision by the PBA Administrator/CEO is final. At the time of written notification, the Stay of Award will be lifted, and the award will be made to the appropriate company or individual.

9.1.1 Protests Involving FTA Funds

The FTA has additional requirements for protests involving FTA grant funds. For protests involving FTA grant funds, refer to 49 CFR Part 18, the common grant rule. The common grant rule is a primary starting point for the requirements that are incorporated in FTA circular 4220.1D and the FTA Master Agreement.

9.2. Vendor Debarment and Suspension

9.2.1 Statement of Policy and Purpose

It is the policy of the Procurement Office to solicit responses and contract with suppliers who are responsive and responsible and who conduct their business with high

ethical standards. PBA will not award a contract to any supplier who is currently debarred or suspended from doing business with any governmental entity. PBA will ask suppliers to certify that they are not currently debarred or suspended from doing business with any governmental entity during the solicitation process.

9.2.2 Federal Debarment

Businesses which are debarred from doing business with the federal government are similarly debarred from doing business with PBA. An updated list of such firms (debarred from doing business with the federal government) can be found on the Federal Government's Excluded Parties List (EPLS) The EPLS is located on the System for Award Management ("SAM") website (www.sam.gov). While the GSA believes the information to be reliable, human or mechanical error remains a possibility. Therefore, the federal government and PBA do not guarantee the accuracy, completeness, timeliness, or correct sequencing of the information. Neither GSA, nor any of the federal sources of the information, nor PBA, shall be responsible for any error or omission, or for the use of, or the results obtained from the use of, this information. When using federal funds (of any type) to make a purchase, the Procurement Office will review the SAM website to ensure the "apparent winning submitter" is not debarred from federal contracting. If the apparent winner is found to be debarred on said website, then that particular submittal shall be rejected, and PBA shall move on to the next apparent winner. The buyer shall put a copy of a printout of the SAM website research of the apparent winner's status in the procurement file as a matter of public record. The PBA Procurement Office may check a supplier's status in SAM for other non-federally funded purchases or solicitations.

9.2.3. Supplier's Continuing Duty to Disclose

Suppliers to whom a contract has been awarded must provide immediate written notice to PBA if at any time the supplier learns that it has failed to disclose information that its principals, affiliates or subcontractors are any of the following:

- Excluded or disqualified from contracting with PBA's clients, the State of Tennessee, other local governments or the federal government;

- Debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency;

- Convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property.

- Indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed above; or

- Have had one or more public transactions (federal, state, or local) terminated for cause or default.

10. Supplier Registration

PBA utilizes a web-based procurement software system for supplier registration, record maintenance, and online retrieval and submittal of quotes, bids, and proposals. In order to conduct business with PBA, all suppliers must be registered with PBA through the web-based procurement software system. For more information or to register as a supplier, interested parties may visit https://www.ktnpba.org/doing-business-with-pba.

Suppliers are not required to sign up for a paid subscription in order to view or respond to PBA solicitations. The procurement software's basic subscription is free to use and is the only subscription required to do business with PBA.

Suppliers are asked to update their supplier registration account any time their point of contact, contact phone number, address, or any other information regarding their business and how it operates changes. PBA uses the information in the procurement software to maintain contact information and basic documentation for all suppliers desiring to do business with PBA. It is the first step in introducing a supplier to PBA Procurement.

PBA will endeavor to notify registered suppliers who provide aligning goods and/or services when PBA releases a solicitation for those goods and/or services . PBA supplier registration is a separate registration than other entity's registrations such as the City of Knoxville, Tennessee or Knox County, Tennessee.

When information on a supplier's registration account is found to be inaccurate or outdated, PBA may try to contact the supplier to acquire updated information. Ultimately, it is the supplier's responsibility to provide PBA accurate information at all times.

11. Contracts

The PBA Administrator/CEO or the Administrator/CEO's expressly appointed designee is the only person who may enter into a contractual agreement on PBA's behalf and bind PBA to contractual obligations. Notwithstanding the foregoing, where the contractual agreement is a PO, the PBA Administrator/CEO may designate certain dollar thresholds for authorizing POs to PBA designees.

Agreements, contracts, or subcontracts containing clauses that violate federal, state, or local laws are deemed null and void by PBA.

All contracts will include a standard indemnification clause, holding PBA harmless for liabilities, defenses, and judgments.

All agreements, contracts, and subcontracts shall contain all necessary affirmative action and nondiscrimination requirements provided by federal, state, or local laws and regulations.

No contract shall be awarded unless funds are available for the purchase. Contracts containing no financial consideration may be negotiated.

Each contract is subject to the sufficient appropriation of funds. If a contract extends beyond the fiscal year, the contract must specifically include the right to terminate if funds are not appropriated.

A revenue contract shall be used to formalize an agreement between PBA and any individual, team, business, non-profit agency or other agency which grants money to PBA.

The Procurement Office designee is authorized to negotiate the terms of a contract with the most responsive supplier(s). Negotiations may include, but are not limited to, price, scope of work/services, delivery, schedule, quality, and so forth as long as such negotiations do not materially alter the terms of the original solicitation.

Payment and Performance Bonds shall be amended as part of contract modifications or for change orders to ensure that the Payment and Performance Bonds are always properly

defined. The Procurement Office shall check this with each contract modification or amendment.

Contracts utilizing grant, state, or federal funds (e.g. Federal Transportation Administration) must contain appropriate clauses defined in the grant or funding documents.

A contract may not be amended or extended if the termination date has passed. Once the contract has expired, there is no legal document to either amend or extend, and the requirement must be re-solicited, if required.

Liquidated damages may be used in contracts where PBA may reasonably expect to suffer damages, where PBA would encounter difficulty at finding another firm to remedy the loss, and where the extent or amount of such damages would be difficult or impossible to determine. The damages shall be at a specific per day rate for each day of the overrun in contract commensurate with the anticipated harm caused by the contract breach and the damages shall be structured to function as damages and not as a penalty.

11.1. Cardinal Changes

A significant change in contract work (products and/or services) that causes a major deviation from the original purpose of the work or the intended method of achievement, or causes a revision of the contract work so extensive, significant, or cumulative that, in effect, the contractor is required to perform very different work from that described in the original contract, is considered a cardinal change and is prohibited.

12. Surplus Property

The Procurement Office is responsible for assisting with the disposition of surplus PBA property. Once property is declared surplus, the Procurement Office can contact other departments to see if they can use the item(s). If it is not re-used by another PBA departments, the property is transferred to Knox County, Tennessee Property Management or the City of Knoxville, Tennessee Surplus to be sold at auction, sold over the Internet, sold via the sealed bid process (real property only), or donated to another government agency with appropriate approval.

12.1. Donations of Surplus Assets

PBA can donate surplus property, including equipment, furniture, and even real estate to another governmental entity. The donation must be approved by the PBA

Administrator/CEO if the surplus property is valued at $25,000 or less. If the value is more than $25,000, approval by the PBA Board is required. Donations to any entity other than another governmental entity are prohibited.

12.2. Sales of Surplus Property to Other Governmental Entities

The Procurement Office may sell surplus property to other governmental entities as per T.C.A. 12-3-1005 without going out for competitive bids if they determine that the buying entity is procuring the surplus property at a fair and reasonable value. The Procurement Office designee shall exercise due diligence to determine whether the price is fair and reasonable.

12.4. Vehicles

The Procurement Office is responsible for the disposition of all surplus PBA vehicles. PBA may list surplus vehicles for sale at public auction. PBA may also send surplus vehicles to Knox County, Tennessee Property Management or City of Knoxville, Tennessee City Surplus, based on the funds used to purchase the vehicles, for sale at public auction. PBA considers sales over internet auction websites as having met the requirements of a public auction.

With the authorization of the Director of Finance, vehicles of nominal value may be sold for scrap. The Director of Finance will make the final determination on if a vehicle is of nominal value on a case-by-case basis.

12.5. Real Estate

PBA will sell real estate in accordance with statutory requirements.

12.6. Ethics Relating to Surplus Property

Because the possibility exists for PBA employees to have knowledge that would put them at an advantage over other bidders, employees are not allowed to buy surplus property while currently employed and for six (6) months after leaving the employment of PBA. This applies to all surplus items, including fleet vehicles and real estate.

13. Records and Reports

13.1. Records

Procurement records shall be maintained in accordance with statutory requirements.

13.1.1. Tennessee Public Records Act Requirements

The Tennessee Public Records Act (TPRA) grants Tennessee citizens the right to access certain public records that exist at the time of the request. All documents related to procurements are public record once the PO or the Intent(s) to Award is issued. To make a request for copies of public records, the requester is required to fill out the Public Records Request Form (See Appendix 10-APP). A request for inspection only will not be required to be in writing. Upon receiving a request from a supplier (or any other individual or organization) to provide any or all of the procurement documents for a particular purchase, the Procurement Office is to provide such information within seven (7) working days. If the Procurement Office is unable to respond in that amount of time, it must notify the requestor of this fact and tell the requestor when it anticipates sending the requested information. All requests for procurement documents are to be addressed to the PBA Records Custodian and may be emailed to procurement@ktnpba.org.

The Procurement Office may require the requestor to pay $0.15 per page for all black and white copies ($0.50 per page for colored copies) measuring standard 8.5" x 11" or 8.5" x 14" and for the time spent compiling and sending the documentation that exceeds one (1) hour. The cost is calculated from the hourly rate of each employee involved, without including benefits or longevity pay. Information shall not be provided until payment is received by PBA from the requesting person. All fees must be paid by cash or check to the “Public Building Authority”. PBA will provide a cost estimate (See Appendix 11-APP) prior to fulfillment of the request. There is no fee for inspection only unless redaction is required. Tenn. Code Ann. §10-7-504(a)(20)(C) permits charging for redaction of records containing confidential information. Repeated or unreasonable requests may be forwarded to the PBA Administrator/CEO for disposition.

All information submitted as part of a bid, proposal, or statement of qualifications is subject to the Tennessee Public Records Act and is available for review by the public upon execution of the PO or the intent to award the contract is issued regardless of any label on the documentation unless the information falls under an exception listed in the T.C.A.

13.2. Reports

The report described in the Disadvantaged Business Enterprise section shall be submitted by the Director of Finance to the City of Knoxville (an/or other clients) on or before February 1st and August 1st of each year.

Annual Surplus Reports shall be submitted by the Procurement Office to the Director of Finance. These reports shall state:

- Vehicle auction summary including total sales and number of vehicles sold.
- List of all items transferred to surplus.

The Procurement Office annually will submit to the Director of Finance on an annual basis a list of all sole source procurements that were awarded. The report is due by August 1st of each year. These reports must be retained for five (5) years in the Procurement Office.

14. Glossary of Procurement Related Terms

Addendum: An addition or supplement to a solicitation document issued prior to the submission deadline. This written instrument issued by the Procurement Office modifies or clarifies the solicitation prior to the due date. “Addenda” is the plural form of the word.

Advertise: To make a public announcement or legal notice of a forthcoming solicitation with the aim of increasing the response and enlarging the field of competition; often required by law or policy.

Aggrieved Supplier/Proposer/Bidder: A respondent who was not awarded a contract and claims their rights were infringed in connection with a solicitation or award by the Procurement Office.

Agreement: An understanding, usually in writing, between two or more competent parties, under which one party agrees to certain performance as defined in the agreement and the second party agrees to compensation for the performance rendered in accordance with the conditions of the agreement. Agreements and contracts are sometimes used synonymously.

Amendment:

1. An agreed addition to, deletion from, correction or modification of a document or contract.

2. To revise or change an existing document; a formal revision, improvement or correction. An amendment also refers to a change order or modification for construction contracts.

Appropriation: Funds that have been set aside for a specific purpose as contained in the budget adopted and approved by the Board. (Note: An appropriation is not an exemption from procurement policies and procedures.)

Auction: A public sale in which property or items of merchandise are sold to the highest bidder. Many governments will auction off government property and may contract with a private auctioneering firm to handle the complete transaction including advertising, the sale and collection of funds, etc.

Award: The acceptance of a bid or proposal; the presentation of a purchase agreement or contract to a supplier or respondent.

Base Contract: The original contract prior to any amendments.

Best Interest: Term used in granting a purchasing official the authority to use discretion in taking whatever action is most advantageous to the government. The term is used when it is difficult to anticipate unusual circumstances that may arise, substituting for specific directions that would, under normal circumstances, be delineated by law or regulation.

Best Practices: Commercial or professional procedures that are accepted or prescribed as being correct or most effective.

Best Value: Means more than low cost. It includes initial cost, all continuing operating costs, service, quality, and other factors related to the acquisition such as delivery time, qualifications and reputation of a supplier, and so forth.

Bid: A solicitation made to potential suppliers requesting costs to provide supplies, equipment, materials, and/or services. A bid may be classified as “formal” or “informal”. A bid is also a response submitted by a bidder to an Invitation for Bids (IFB) or to a multi-step bid. Sometimes the complete bid document may be referred to as “the bid”. See IFB definition. (Note: The response to a Request for Proposals (RFP) is called a proposal or offer. The response to a Request for Qualifications (RFQ) for professional services is a Statement of Qualifications.)

Bid Bond: An insurance agreement in which a third party agrees to be liable to pay a certain amount of money should a specific supplier's bid be accepted and the supplier fails to sign the contract as bid.

Bid Evaluation: Process of examining a bid to determine a bidder's responsibility, responsiveness to requirements, and other characteristics of the bid that determine the eventual selection of a winning bid.

Bid Opening: The official process in which sealed bids are opened, usually in the presence of one or more witnesses, at the time and place specified in the Invitation for Bids. The amount of each bid is recorded and bids are made available for public inspection. It may be open to the public. Note: Electronically submitted bids are automatically sealed until the due date.

Business Day: A day in which normal business operations are conducted: a weekday that is not a holiday.

Business Owned by Persons with Disabilities: Also known as a *Disabled Business Enterprise (DSBE)*. A business owned by a person with a disability that is a continuing, independent, for-profit business that performs a commercially useful function, and is at least fifty-one percent (51%) owned and controlled by one (1) or more persons with a disability; or, in the case of any publicly-owned business, at least fifty one percent (51%) of the stock of which is owned and controlled by one (1) or more persons with a disability and whose management and daily business operations are under the control of one (1) or more persons with a disability. Also see *Person with a Disability*.

Calendar Day: All days in a month, including weekends and holidays.

Capital Items: Equipment with an expected life span of one (1) year or more and a value typically in excess of $5,000.

Code of Ethics: Written policies or guidelines which apply to the ethical behavior of members of an organization, business or public entity.

Competitive Bidding: The process of inviting and obtaining bids from competing sources in response to advertised competitive specifications, by which an award is made to the lowest and best bidder meeting the specifications. The process contemplates giving potential bidders a reasonable opportunity to bid and requires that all bidders be placed on the same plane of equality. Each bidder must bid on the same advertised specifications, terms, and conditions in all the items and parts of a contract. The purpose of competitive bidding is to stimulate competition, prevent favoritism, and secure the best goods and services at the lowest practicable price, for the benefit of the agency. Competitive bidding cannot occur where contract specifications, terms, or conditions prevent or unduly restrict competition, favor a particular supplier, or increase the cost of goods or services without providing a corresponding benefit to the agency. Best Value to the entity shall not be excluded from the competitive bidding process.

Construction: The process of utilizing labor to build, alter, demolish, improve, or repair (e.g. dredging, excavating and painting) buildings, structures, highways, and other real property; generally, does not apply to routine maintenance or operation of existing real property.

Consulting Services: Services of an advisory nature required to support policy development, decision-making, administration, or management of a business or public entity; generally provided by individuals or organizations who possess specific knowledge, technical skills or unique abilities not usually available in-house or from within the entity.

Contract: An agreement, grant, or order for the procurement, use, or disposal of supplies, services, construction, insurance, real property, or any other item.

Contract Amendment: The alteration or modification of a provision within an existing contract.

Contracting Party: A person or legal entity with the independent legal capacity to contract or sue and be sued that has been awarded a contract through proper authority.

Cooperative Purchasing Agreement: A written contract procured for the benefit of two or more governmental entities to make purchases of goods or services.

Debarment: The disqualification of a person or business to receive the award of a contract or purchase order by PBA.

Design-Build: A project under which PBA enters into a contract with a seller, firm, or consortium of firms to design and build a public project/system, or an operable segment of such project/system, that conforms to specific performance criteria. A design build project also means a construction project in which PBA enters into a contract with a seller, firm, or consortium of firms both to design and construct a project or facility that is the subject of the project.

Disadvantaged Business Enterprise (DBE): A business that is owned or controlled by socially and economically disadvantaged individuals (e.g., minority-owned businesses, woman-owned businesses, small businesses, and service-disabled veteran-owned businesses.

Emergency Purchase: A purchase made due to a sudden, unforeseen occurrence that poses a clear and imminent danger requiring immediate action to prevent or mitigate the loss or impairment of life, health, property or essential public services. Usually, formal competitive solicitation procedures are waived, but certain emergency services may employ use of pre-established pricing agreements.

Equal Value: The same in quality, performance and other characteristics.

Evaluated Bid Price: Dollar amount of a bid after bid adjustments pursuant to a precise mathematical formula, which measures the effective price to PBA. Such formula shall take into account factors that contribute to the economy and effectiveness in the operation of a procured item, such as reliability, maintainability, useful life, and residual value.

Evaluation Committee: The committee comprised of persons who will evaluate responses to an RFP or RFQ. An evaluation committee may be comprised of one or two members of the requesting department, other departments within PBA, client representative(s), subject matter expert(s), and the PBA Procurement Office designee. The members may or may not have knowledge of a particular service or good for which they are evaluating.

Immediate Family: Defined as spouse, children (including natural, step, and adoptive), parents (including natural, step, and adoptive), siblings, grandparents, and grandchildren, and any other individual residing within the employee's household who is a legal dependent of the employee for income tax purposes.

Invitation for Bids (IFB): Formal request to prospective suppliers soliciting price quotations or bids; contains, or incorporates by reference, the specifications or scope of work and all contractual terms and conditions.

Maintenance: The upkeep of property that neither adds to its permanent value nor prolongs its intended life appreciably, but instead keeps it in an efficient operating condition.

Procurement Manager: The official that represents the Public Building Authority Procurement Office with regards to purchasing and is responsible for procurement of goods and general and professional services.

Minority-Owned Business: A business that is a continuing, independent, for-profit business which performs a commercially useful function, and is at least fifty-one percent (51%) owned and controlled by one (1) or more minority individuals who are impeded from normal entry into the economic mainstream because of past practices of discrimination based on race or ethnic background.

Non-responsive: An entity or individual who has submitted a response to a solicitation that fails to conform in all material respects to the solicitation's requirements.

Open Market Purchases: Purchases made without conforming to formal advertising or other formal bid procedures. PBA purchases on the open market are capped at $9,999.00.

Payment Bond: A surety bond whereby a surety agrees to pay the claims of subcontractors and suppliers in the event the contractor defaults.

Performance Bond: A surety bond whereby a surety agrees to perform the contract in the event the contractor defaults.

Person with a Disability: For the purpose of Disadvantaged Business Enterprises, "person with a disability" means an individual who meets at least one (1) of the following:

1. Has been diagnosed as having a physical or mental disability resulting in marked and severe functional limitations that is expected to last no less than twelve (12) months;
2. Is eligible to receive social security disability insurance (SSDI); or
3. Is eligible to receive supplemental security income (SSI) and has a disability as defined in subdivision (1).

Piggybacking: When a governmental entity uses an existing procurement process/contract from another governmental entity as the justification and documentation to form their own contract directly with the supplier to purchase the same or similar commodities or services at the same or lower price.

Pre-bid Conference: A meeting held with potential suppliers, after a solicitation or Letters of Interest is posted but before the submission deadline, in order to promote uniform interpretation of work statements and specifications by all prospective suppliers.

Procurement: Buying, renting, leasing, or otherwise obtaining supplies, services, construction, insurance, or any other item. Also includes all functions that pertain to the acquisition of such supplies, services, construction, insurance, and other items, including description of requirements, selection and solicitation of sources, preparation and award of contract, contract administration, and all phases of disposal.

Professional Services: The services of individuals, teams, or organizations which are licensed and certified (as required) in their particular field of expertise and adhere to an industry accepted set of technical or ethical standards. Examples include, but are not limited to, accountants, appraisers, archaeologists, attorneys, business consultants, architects, engineers, law firms, physicians, researchers, real estate brokers, and so forth.

Proprietary: A good or service that is used, produced, or marketed under exclusive legal right of the inventor, maker, or service provider that is protected under trade secret, patent, trademark, or copyright law.

Proprietary Procurement: A procurement of a service or a product that is manufactured and marketed by a person or persons having the exclusive right to provide the service or manufacture or sell the product.

Protest: A formal complaint made against the methods employed or decisions made by a procurement authority in the process leading to the award of a contract.

Purchase Order (PO): Legal document authorizing a purchase from a supplier. A PO should contain statements about the quantity, description, and price of the goods and/or services ordered; terms of payment, discounts, date of performance, transportation terms, and all other agreements pertinent to the purchase and its execution by the supplier.

Request for Proposals (RFP): All documents used to solicit competitive proposals. A formal solicitation method used for requirements exceeding authorized limits when it is expected that negotiations with one or more suppliers may be required with respect to any aspect of the requirements, or other factors will be considered in the selection of the contractor in addition to price, or only one source is being solicited.

Request for Qualifications (RFQ): A formal solicitation method which is limited for use in soliciting professional services.

Requisition: An internal document whether paper or electronic by which a request is sent to the Procurement Office detailing the supplies, services, and/or materials required.

Requisitioning Department: The department that has budget responsibility for the acquisition, except in the case of an acquisition of information technology, in which case the requisitioning department also includes the department that will be the main user of the technology.

Respondent: A person or business providing a written response to a solicitation.

Responsive Bidder/Proposer: An entity or individual who has submitted a response, which conforms in all material respects, to the terms of a solicitation.

Scope of Work: A detailed, written description of the conceptual requirements for the project. The scope of work should establish a clear understanding of what is required by the entity. It defines what will be done, how, by whom, and cost factors.

Sealed Bid: A formal submission from a supplier. It is submitted in a sealed envelope to prevent its contents from being revealed before the time and date set for the bid opening.

Service-Disabled Veteran: Any person who served honorably on active duty in the Armed Forces of the United States with at least a twenty percent (20%) disability that is service-connected meaning that such disability was incurred or aggravated in the line of duty in the active military, naval or air service.

Service-Disabled Veteran-Owned Business: A business that is a continuing, independent, for-profit business that performs a commercially useful function, and

1. Is at least fifty-one percent (51%) owned and controlled by one (1) or more service-disabled veterans;
2. In the case of a business solely owned by (1) service-disabled veteran and such person's spouse, is at least fifty percent (50) owned and controlled by the service-disabled veteran; or
3. In the case of any publicly owned business, at least fifty-one percent (51%) of the stock of which is owned and controlled by one (1) or more service-disabled veteran and whose management and daily business operations are under the control of one (1) or more service-disabled veteran.

Also see *Service-Disabled Veteran*.

Small Business: A business that is a continuing, independent, for-profit business which performs a commercially useful function with residence in this state and has total gross receipts of no more than ten million dollars ($10,000,000) averaged over a three-year period or employs no more than ninety-nine (99) persons on a full-time basis.

Software as a Service ('SaaS'): A method of software deployment whereby applications are owned, delivered, and managed remotely by one or more providers over the Internet or an intranet, and licensed to customers as an on-demand service through a usage-based model sometimes called a "subscription schedule." SaaS, however, shall not be treated as a Subscription as that term is defined by PBA.

Sole Source Procurement: An award for a commodity and respective service, if applicable, which can only be purchased from one supplier, often because of its technological, specialized, or unique character.

Solicitation: An Invitation for Bids, a Request for Proposals, Request for Qualifications, telephone calls or any document used to obtain bids, proposals, or qualifications for the purpose of entering into a contract. Also see *Bid*.

Specification: A precise description of the physical or functional characteristics of a product, good or construction item; a description of goods and/or services; a description of what the purchaser seeks to buy and what a supplier must be responsive to in order to be considered for award of a contract. Specifications generally fall under the following categories: design, performance, combination (design and performance), brand name or approved equal, qualified products list and samples.

Subscription: Expenditures, user fees, or other charges by departments or agencies, for: (1) newspapers, magazines, periodicals, books, films, instructional videos, read-only data, or other publications (i.e., any publication printed, microfilmed, photocopied, or otherwise recorded for auditory or visual use), including trade, business, professional, or other technical periodicals; or (2) access to such publications in their online or digital form, including access by means of a supplier-provided application that is necessary for or facilitates use of publications or data. A Subscription does not include SaaS licenses or agreements, or any other service, even when the payment methodology is called a "subscription schedule." A Subscription is not a limited-time license.

Suspension: A temporary or limited exclusion of a supplier from participation procurements or contracts as a respondent, contractor or subcontractor.

Term Contract: A contract in which a source of supply is established for a specified period of time.

Woman-Owned Business: A business that is a continuing, independent, for profit business which performs a commercially useful function, and is at least fifty-one percent (51%) owned and controlled by one (1) or more women; or in the case of any publicly owned business, at least fifty-one percent (51%) of the stock of which is owned and controlled by one (1) or more women and whose management and daily business operations are under the control of one (1) or more women.

15. Appendix

1-APP	Contract Matrix
2-APP	PBA Code of Ethics Resolution
3-APP	Evaluation and Selection Committee Member Agreement
4-APP	Solicitation/Quote Request Form
5-APP	Purchasing Card Policies and Procedures
6-APP	Purchasing Card Cardholder Agreement
7-APP	FTA-Funded Procurement Terms and Conditions
7-APP	Part A. FTA-Funded Procurement Checklist

7-APP Part B. Federally Funded Contract Requirements
7-APP Part C. Protest Procedures for FTA-Funded Contracts
8-APP Independent Cost Estimate
9-APP Project Assignment Form
10-APP Public Records Request Form
11-APP Cost Estimate for Public Records Request Form

Contract Matrix

	Insurance	Bid Bond	Performance Bond	Payment Bond	Business License	Contractors License	Non-Collusion Affidavit	Drug-Free Affidavit	PBA Board Approval
Goods < $10,000	NO	NO	NO	NO	YES	NO	NO	NO	NO
Goods $10,000 -$24,999	NO	NO	NO	NO	YES	NO	NO	NO	NO
Goods $25,000+	PERHAPS	NO	NO	NO	YES	NO	YES	PERHAPS	PERHAPS
Services < $10,000	YES	NO	NO	NO	YES	NO	PERHAPS	NO	NO
Services $10,000 - $24,999	YES	PERHAPS	PERHAPS	PERHAPS	YES	PERHAPS	PERHAPS	NO	NO
Services $25,000+	YES	PERHAPS	PERHAPS	PERHAPS	YES	YES	YES	YES	PERHAPS
Construction < $750,000	YES	PERHAPS	PERHAPS	PERHAPS	YES	YES	YES	YES	NO
Construction > $750,000	YES	YES	YES	YES	YES	YES	YES	YES	YES

1. All businesses interested in doing business with PBA must provide all required documentation including, but not limited to current business license(s), certificate of insurance with appropriate coverages, W-9, EFT/ACH information, current contractor's license, etc.

2. POs over $10,000 but less than $25,000 for goods require 3 quotes.

3. All solicitations require a non-collusion affidavit. A Drug-Free Affidavit is required if supplier delivers on PBA property. Any purchases over $500,000 require PBA Board approval.

4. Services ranging in cost from $10,000 - $25,000 do not require Drug-Free Affidavit or PBA Board approval.

5. Services costing greater than $25,000 may require various bonds and PBA Board approval. The term "perhaps" in the matrix implies a decision to be made on a case-by-case basis by the Procurement Office.

6. Construction services costing less than $750,000 do not require PBA Board approval; any project above $750,000 will require PBA Board approval. Any change order to an existing project that will take the total cost of the project over $750,000.00 will require PBA Board approval.

CODE OF ETHICS
OF THE
PUBLIC BUILDING AUTHORITY
OF
THE COUNTY OF KNOX AND THE CITY OF KOXVILLE, TENNESSEE

WHEREAS, pursuant to Tenn. Code Ann. "-17-101 et seq., the governing body of each Tennessee county and municipality is required to adopt ethical standards applicable to all officials and employees of such government entities, and in compliance with this statute, both Knox County, Tennessee ("County") and the City of Knoxville, Tennessee ("City") have adopted ethics policies; and

WHEREAS, the Public Building Authority of the County of Knox and the City of Knoxville, Tennessee ("PBA"), as an entity created by the County and the City, is subject to each of the ethics policies adopted by the County and the City; and

WHEREAS, being subject to the ethics policies of both the County and the City presents challenges for PBA, as the County and City ethical policies contain differing ethical standards; and

WHEREAS, PBA would benefit from having its own ethics policies, provided that both the County and the City approve the policies, as Tenn. Code Ann. 58-17-202(b) requires;

WHEREAS, Tenn. Code Ann. 58-17-202(b) provides that, in the case of an instrumentality like PBA created by two (2) or more local government entities, the creating entities must designate the ethical standards that govern the jointly created instrumentality by amending the agreement which created the joint instrumentality; and

WHEREAS, under this provision, the City and County must each pass a resolution amending their respective PBA-authorizing resolutions to designate the ethics policies by which PBA officials and employees must abide; and

WHEREAS, PBA's Board of Directors desires to adopt and recommend the following Code of Ethics to the City and the County for approval.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF PBA AS FOLLOWS:

General Statement

PBA is a public entity established by the County and the City. It is charged with the responsibility of acting in the best interests of the City and County and their citizens. Accordingly, PBA's directors, officers and employees are held to the highest ethical standards and should:

(i) conduct PBA's affairs honestly, fairly, impartially and in good faith;

(ii) avoid all situations that might lead to a real or apparent, material conflict between self interest and the duties and responsibilities as an employee, officer or director;

(iii) exercise good judgment to act within the spirit, as well as the letter, of this Code of Ethics, and seek guidance from appropriate persons, when necessity to follow an appropriate course of conduct; and

(iv) take care to avoid any appearance of impropriety, and any circumstances that may raise questions about PBA's honesty, impartiality, or reputation or otherwise cause embarrassment to PBA.

Section 1. Definitions.

1.1 "PBA" means the entity which currently develops, constructs, owns, and/or maintains certain facilities on behalf of the City of Knoxville and Knox County pursuant to operating contracts with those entities.

1.2 "Covered Persons" means PBA personnel consisting of all full-time and part-time appointed officials and employees (whether compensated or not), including PBA's directors and officers and the members of any separate board, commission, committee, authority, corporation, or other instrumentality appointed or created by PBA.

1.3 "Personal interest" means, for the purpose of disclosure of personal interests in accordance with this Code of Ethics:

(a) Any financial, ownership, or employment interest in the subject of a vote by PBA not otherwise regulated by state statutes on conflicts of interests; or

(b) Any financial, ownership, or employment interest in a matter to be regulated, supervised, or otherwise acted on in an official capacity; or

(c) Any such financial, ownership, or employment interest of the Covered Person's spouse, parent(s), stepparent(s), grandparent(s), sibling(s), child(ren), stepchild(ren), nieces, nephews, and those related to a Covered Person by marriage.

(d) The words "employment interest" include a situation in which a Covered Person or a designated family member is negotiating possible employment with a person or organization that is the subject of the vote or that is to be regulated or supervised.

(e) In any situation in which a personal interest is also a conflict of interest under state law, the provisions of the state law take precedence over the provisions of this section.

1.4 "Ethics Officer' means PBA's ethics officer, who will be appointed to a four-year term by the Board of Directors of PBA. If the Ethics Officer's term of office, as a Director, is less than four years, the term of his or her appointment as Ethics Officer will be the balance of his or her term as a Director.

Section 2. Disclosure of Personal Interest in Voting Matters.

2.1 A Covered Person with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote and to be included in the minutes, any personal interest that affects or that would lead a reasonable person to infer that it affects the official's or employee's vote on the measure.

2.2 In addition, the Covered Person shall recuse himself or herself from voting on the measure unless, in the judgment of the Ethics Officer, such personal interest is deemed to be de minimis in which case recusal from voting on the measure is permissive rather than mandatory. In all other instances of a personal interest, following the disclosure thereof, the Covered Person shall recuse himself or herself from voting on the measure.

Section 3. Disclosure of Personal Interest in Nonvoting Matters.

3.1 A Covered Person who must exercise discretion relative to any matter other than casting a vote, and who has a personal interest in the matter that affects, or that would lead a reasonable person to infer that it affects, the exercise of the discretion, shall disclose, before the exercise of the discretion when possible, the interest. In addition, the Covered Person shall recuse himself or herself from the exercise of discretion in the matter. The Covered Person shall disclose the personal interest to the Ethics Officer, unless the Covered Person is an employee, in which case the employee shall disclose the interest in accordance with PBA's human resources policies and the reporting structure then in effect.

3.2 A Covered Person who has a personal interest or potential personal interest in a project with which PBA is involved, whether or not PBA may or may not be directly involved in any direct transaction with the Covered Person, should disclose that interest as required by Section 3.1 as soon as he/she is aware of the circumstances. The Ethics Officer, or PBA's management, as the case may be, may then recommend to the Board or Administrator/CEO that PBA withdraw from involvement in the project or may simply disclose the interest or potential interest to the Board of Directors for its consideration.

Section 4. Acceptance of Money, Gifts and Gratuities.

4.1 Neither a Covered Person, nor any other person described in Section 1.3(c), may accept, directly or indirectly, any money, gift, gratuity, or other consideration or favor of any kind from anyone:

(a) For the performance of an act, or refraining from performance of an act, that he or she would be expected to perform, or refrain from performing, in the regular course of his or her duties; or

(b) That a reasonable person would understand was intended to influence the vote, official action, or judgment of the Covered Person in executing the business of PBA; provided, however, that the following shall not be interpreted as an attempt to influence the action of a Covered Person: (i) a gift or gratuity that is not cash or a cash equivalent (such as a check or gift card), and which has a value of twenty-five dollars ($25.00) or less, and (ii) gifts and gratuities from any single person or entity that comply with subsection (i) and do not exceed in the aggregate $100.00 during any calendar year.

4.2 PBA's Administrator/CEO may direct that no PBA employee may accept a gift or gratuity, even though it may have a value of twenty-five dollars ($25.00) or less.

Section 5. Use of Information.

5.1 A Covered Person may not disclose any information obtained in his or her official capacity or position of employment that is made confidential under state or federal law except as authorized by law.

5.2 A Covered Person may not use or disclose information obtained in his or her official capacity or position of employment with the intent to result in financial gain for himself or herself or any other person or entity.

Section 6. Use of Time, Facilities, and Other Assets.

6.1 A Covered Person may not use or authorize the use of PBA time, facilities, equipment, or supplies for private gain or advantage to himself or herself.

6.2 A Covered Person may not use or authorize the use of PBA time, facilities, equipment, or supplies for private gain or advantage to any private person or entity, except as authorized by legitimate contract or lease approved in accordance with the provisions of this Code.

Section 7. Use of Position or Authority.

7.1 A Covered Person may not make or attempt to make private purchases, for cash or otherwise, in the name of PBA.

7.2 A Covered Person may not use or attempt to use his or her position to secure any privilege or exemption for himself or herself or others that is not authorized by the chatter, general law, or ordinance or policy of the County or City or the chatter, bylaws or policies of PBA.

Section 8. Outside Employment.

A Covered Person, may not accept or continue any outside employment if the work unreasonably inhibits the performance of any affirmative duty of a PBA Covered Person or conflicts with any provision of PBA's charter or any ordinance or policy. This policy is in addition to, and not a substitute for, any personnel or human resources policies adopted by PBA from time to time. This Section 8 does not apply to PBA's Directors.

Section 9. Ethics Complaints.

9.1 Questions and complaints regarding violations of this Code of Ethics or of any violation of state law governing ethical conduct should be directed to the Ethics Officer, who is designated and appointed by PBA's Board of Directors. If the Ethics Officer is the subject of an alleged violation, the question or complaint shall be directed to the Chair of the Board of Directors, who may exercise any of the authority and powers vested in the Ethics Officer under this Section.

9.2 Except as otherwise provided in this Section 9 the Ethics Officer shall hear, review, and investigate any credible complaint against an appointed official or employee charging any violation of this Code, or may undertake an investigation on his or her own initiative when he or she acquires information indicating a possible violation. The Ethics Officer may render an oral or written advisory ethics opinion based upon this Code and other applicable law, and may make recommendations for action to end or seek retribution for any activity that, in the Ethics Officer's judgment, constitutes a violation of this Code of Ethics.

9.3 The Ethics Officer may request that the Board of Directors establish a separate Ethics Committee to aid in the hearing, review, and investigation of, as well as the formation of a final opinion on, any credible complaint. In all phases of investigation and review, the Ethics Officer is encouraged to consult PBA's General Counsel regarding the final opinion rendered and any further action to be taken.

9.4 The Ethics Officer may recommend that PBA's General Counsel hire another attorney, individual, or entity to act as ethics officer when he or she has or will have a conflict of interest in a particular matter. The Ethics Officer may also proceed with review of the matter, and make an advisory report and recommendation to the full Board of Directors. The Ethics Officer may additionally request that the General Counsel participate in this meeting, and the Counsel may render opinions on the alleged conflict of interest.

9.5 The interpretation that a reasonable person in the circumstances would apply shall be used in interpreting and enforcing this Code of Ethics.

9.6 When a violation of this Code of Ethics also constitutes a violation of a personnel policy, rule, or regulation, or a civil service policy, rule, or regulation, the violation shall be dealt with as a violation of the personnel or civil service provisions rather than as a violation of this Code of Ethics.

Section 10. Violations.

10.1 An appointed Director of PBA or a member of a board, commission, committee, authority, corporation, or other instrumentality of PBA, who violates any provision of this Code, is subject to punishment as provided by this Code or any other applicable law, and in addition is subject to censure by the Board of Directors upon recommendation by the Ethics Officer or other person serving in a similar role under Section 9.

10.2 A Covered Person, who violates any provision of this Section, is subject to further disciplinary action authorized by PBA's enabling legislation, chaffer, bylaws, and other established policies and by any Code of Ethics adopted by the City or the County.

Section 11. Applicable State Laws.

In addition to the ethical principles set out in this Code of Ethics, state laws also provide a framework for the ethical behavior of Covered Persons in the performance of their duties. Covered Persons should familiarize themselves with the state laws applicable to their office or

position and the performance of their duties. To the extent that an issue is addressed by state law (law of general application, public law of local application, local option law, or private act), the provisions of that state law, to the extent they are more restrictive, shall control.

Adopted and approved this 28th day of January, 2008.

PUBLIC BUILDNG AUTHORITY OF THE COUNTY OF KNOX AND THE CITY OF **KNOXVILLE, TENNESSEE**

By: _____
Chair

By: _____
Secretary

PBA Procurement Division

Conflict of Interest & Evaluation Team Member Guidelines

Your willingness to participate as an Evaluation Team Member is an integral part of the procurement process. To protect the integrity of the evaluation process, it is essential that each member of the evaluation team understand and abide by the following guidelines.

Fairness and Integrity: It is the responsibility of every member of the evaluation team to ensure that the evaluation is conducted in an impartial, objective and professional manner, and that the same level of effort is extended to the evaluation of each supplier's proposal.

Understanding of the Project: Your success as an effective member of the team depends on your comprehensive understanding of the project, and your familiarity with the requirements and specifications contained in the solicitation. It is your responsibility to familiarize yourself with those documents.

Attendance: Evaluation team members must attend all meetings including proposer interviews, presentations, and off-site visits. Team members who do not attend all meetings may not be allowed to participate in the evaluation process; this determination will be at the discretion of the Procurement Manager. Committee members must not discuss the evaluation with one another unless all members are present.

Confidentiality: Evaluation team members must not communicate with individuals outside of the evaluation committee on the nature or content of the written proposals, products, demonstrations, interviews, evaluation proceedings, deliberations of the evaluation team, or express individual opinions about the proposers or the project. The names of the proposers that have submitted responses must also be held in confidence. Some team members may be compelled to communicate the details of their involvement with their supervisor, department head, or other superior(s) from time to time. However, it is imperative that the panel member convey the importance of confidentiality to those individuals.

More importantly, evaluation team members must not communicate with proposers about this project outside of any scheduled and sanctioned evaluation activity, without the knowledge and approval of the PBA Procurement Division representative. If any member of this evaluation team has any reason to contact one or more proposers participating in this solicitation, even if the matter is not directly or indirectly related to this project, they must immediately divulge the nature and reason for the contact to the PBA Procurement Division representative. The PBA Procurement Manager will then determine if that activity poses a conflict with the person's participation on this evaluation committee.

Conflicts of Interest: You may not participate as a member of this committee if you, or a family member, have a personal interest in any company that may submit a proposal. A family member is defined as your spouse, children, grandchildren, brothers, sisters, half-brothers or half-sisters, brothers- and sisters-in-law, children of your spouse, and children of your brothers, sisters, half-brothers, or half-sisters. You must agree that if you currently have, or later discover, a conflict of interest which meets these criteria, you will declare the circumstances immediately to the Procurement Division representative and remove yourself from the committee. You also acknowledge that you have a responsibility to prevent the appearance of a conflict of interest.

By signing below, you are confirming that you understand and will adhere to these guidelines. You are also confirming that you do not currently have a conflict of interest that would prevent your participation in this process.

Signature: _____ Date: _____

Printed Name: _____

Project or Solicitation Title: _____

PBA
Public Building Authority

Return Completed Form to PBA Procurement Office

Solicitation/Quote Request Form

Date: _____ **Contact Person:** _____

Type of Product/Service: _____ **Estimated Cost: $**_____

1. Describe product or project in detail. (Use back or attach additional sheets/documentation.)

2. List of required specifications: _____

_____

3. Date you desire to purchase product/service. _____
(NOTE: Bid processes takes a minimum of 20 days and up to 90 days for complex projects)

4. This purchase requires:
   - ☐ No Pre-Bid Meeting? *(The specifications attached are sufficient to make a proposal.)*
   - ☐ A standard Pre-Bid Meeting? *(A new vendor can make a quality proposal from the information in the attached specification, but seeing the location, its application or other factors not readily available in the specs can be helpful, but not necessary.)*
   - ☐ A Mandatory Pre-Bid Meeting? *(A new vendor cannot make a quality proposal from the information in the attached specification without seeing the location, its application or other factors not readily available in the bid package.)*

5. Are there additional manufacturers specifications, drawings, architectural/engineering documents, etc. that need to be included in the bid package? **NO** ☐ **YES** ☐
(If YES, attach additional pages)
6. Do you think this product/service is proprietary/sole source? **NO** ☐ **YES** ☐
7. Were funds budgeted for this purchase/service? **NO** ☐ **YES** ☐

8. What budget line will the funds be allocated to? _____

9. What are the main factors which you think are important for a vendor (and/or product) to be successful in meeting your needs. List in order of importance. *(i.e. product specification, warranty, price, service, timely delivery, dependability, vendor experience, technician experience, life-cycle cost)* Attach more items if necessary.

   a) _____ b) _____

   c.) _____ d) _____

10. Are there any additional or special considerations to consider when making this purchase?

_____

11. Who should be involved in the evaluating and selection of a successful vendor(s)?

a) _____ b) _____ c) _____

12. List vendors who you think can submit a proposal for this product/service? (Prefer Minimum of three) List any current vendors first.

a) _____ b) _____

b) _____ d) _____



Purchasing Card Policies and Procedures

The Public Building Authority (PBA) uses Bank of America (BOA) for the issuance of purchasing cards.

Definitions of Responsible Parties:

- Cardholder – Employee receiving the purchasing card.
- Cardholder Liaison – Person assigned the responsibility of collecting receipts and coding. transactions in the Works system. This person will be set up as "Proxy Reconciler" in the Works system.
- Manager/Supervisor – Person responsible for approving cardholder transactions for his/her employees.
- Purchasing Card Administrator – Person(s) responsible for the overall purchasing card program.

CRITERIA TO RECEIVE A PURCHASING CARD

- Applicant must be an employee of the PBA.
- Applicant's request for a Purchasing Card must be approved by his/her supervisor.
- Each individual Cardholder must sign a Cardholder Agreement (Attachment 2).

PURCHASING CARD SETUP AND MAINTENANCE

All contact with Bank of America for Purchasing Card setup and maintenance (except for reporting lost or stolen cards) will be handled by the Purchasing Card Administrator, who is located in the PBA Finance Department.

Card Setup

- Request to issue a credit card to an employee must be made in writing to the Purchasing Card Administrator. The request must include the limit and any other restrictions that need to be placed on the credit card account.
- Supervisor's written request/approval delegates transaction authority to the Cardholder.
- Purchasing Card Administrator reviews request for completeness and orders the card on-line via Works.
- Cardholder signs Cardholder Agreement signifying agreement with the terms of the Purchasing Card program.
- Program Administrator will activate the card after receiving the signed agreement.

CARDHOLDER LIABILITY

The Purchasing Card is a corporate charge card which will not affect the Cardholder's personal credit; however, it is the Cardholder's responsibility to ensure that the card is used within stated guidelines of the Purchasing Card Policies and Procedures, PBA's Policies and Procedures relating to the expenditure of PBA funds, and the policies contained in the Procurement Manual. Failure to comply with program guidelines may result in permanent revocation of the card, notification of the situation to management, and further disciplinary measures up to and including termination.

CARDHOLDER TERMINATION AND CLOSURE

The Purchasing Card Administrator is responsible for card closure and is required to close an account if a Cardholder: (a) terminates employment; or (b) for any of the following reasons which will also subject Cardholder to disciplinary action in accordance with the PBA's Policies and Procedures relating to disciplinary action and termination for cause:

- The Purchasing Card is used for personal or unauthorized purposes.
- The Purchasing Card is used to purchase items from suppliers that are not on contract.
- The Purchasing Card is used to purchase alcoholic beverages or any substance, material, or service which violates policy, law or regulation pertaining to the PBA.
- The Cardholder allows the card to be used by another individual.
- The Cardholder splits a purchase to circumvent procurement requirements.
- The Cardholder uses another Cardholder's card to circumvent the purchase limit assigned to either Cardholder or the limitations of the Purchasing Card.
- The Cardholder fails to provide PBA Finance with required receipts.
- The Cardholder fails to provide, when requested, information about any specific purchase.
- The Cardholder does not adhere to all Purchasing Card policies and procedures.

Terminated or Transferred Employees - Cardholder Liaison or Cardholder Supervisor is to secure Purchasing Cards from terminated employees. The Cardholder Liaison or Cardholder Supervisor will immediately notify the Purchasing Card Administrator by phone of the termination or transfer. The Purchasing Card Administrator will close the cardholder account in Works within 2 days of receiving the notification. All Purchasing Cards are to be returned to the Purchasing Card Administrator for disposal.

Other Card Revokes/Closures - Purchasing Card Administrator will notify Bank of America immediately of all revokes and closures.

DISIPLINARY ACTIONS:

- **First offense:** Suspension of Cardholder privileges for a minimum of thirty (30) days.
- **Second offense:** Immediate termination of Cardholder privileges and a written reprimand recorded in the employee's personnel file.

LOST, MISPLACED OR STOLEN PURCHASING CARDS

Cardholders are required to immediately report any lost or stolen Purchasing Card to Bank of America toll-free at 1-888-449-2273 (24 hours a day, 365 days a year). The Cardholder must also immediately notify his/her Cardholder Liaison and Purchasing Card Administrator about the lost or stolen card at the first opportunity during normal business hours. The Purchasing Card Administrator will follow up with Bank of America to ensure the account has been closed.

CARDHOLDER TRANSACTIONS

Cardholder will:

- Be responsible for ensuring all purchases are made only from suppliers with active term contracts with PBA. If the cardholder is unsure if a supplier has a contract, it is the cardholder's responsibility to reach out to Procurement to determine if there is a contract in place to cover the purchase before any purchase is made.
- Maintain receipts to support cardholder transactions.
- If a receipt is lost, it is the cardholder's responsibility to go back to the vendor for a replacement receipt.

- If a receipt or replacement is not available, it will be written up as an exception requiring the CEO's approval to process for PBA to pay.
- If the CEO does not approve, it will be the responsibility of the cardholder to reimburse PBA for the charge.
- Code vendor receipt with the location and a description of the purchase if it is not described on the receipt.
- If a transaction has tax included, it is the cardholder's responsibility to have this tax credited back to the card.
- Submit vendor receipt and any supporting documentation to Cardholder Liaison or to PBA Finance if cardholder does not use a liaison.

Cardholder Liaison/Cardholder will:

- Review and reconcile Cardholder receipts to the billing statements.
- Assign GL codes to each transaction in the Works system.
- Change the automated transaction description to reflect the actual description of the purchase (i.e. plumbing supplies, motor for West Clinic, or light bulbs).
- If the transaction is for a reimbursable project or CARP project, please change the automated description to the Project Name or Project Number.
- Identify transactions including tax and verify that the cardholder has requested a credit.
- Coordinate approval of cardholder transactions with the supervisor.
    - If any improper or unauthorized charges are discovered, they shall be immediately reported to the Finance Director.
- Forward all receipts with the corresponding billing report to the Purchase Card Administrator.

Supervisor/Manager will:

- Review employee transactions and receipts.
- Any problems noted should be resolved with the cardholder and/or the Cardholder Liaison before approving the transaction in the Works system.
- Sign off on employee transactions in the Works system.
- Any incident of improper or unauthorized use of the purchasing card shall be immediately reported to the Finance Director.

Purchasing Card Administrator will:

- Will set up scheduled reports for the Cardholder Liaisons/Cardholder.
- Establish and notify Cardholder Liaisons of monthly cut-off date for approvals.
- Review documentation submitted by the Cardholder Liaison for completeness.
- Reconcile the monthly billing statement to approved transactions in the Works system.
- Review the GL coding departmental charges to accounting for charging individual departments. Any changes will be forwarded to the Cardholder Liaison.
- Proceed with the final approval of monthly transaction to close the cycle in Works.
- Make periodic audits of card use and charges noting any unusual or abnormal purchases using the Works online reporting system. Areas to be monitored include but are not limited to compliance with Purchasing Card regulations, procurement guidelines, and the PBA policy and procedures.

Purchasing Card Cardholder Agreement

1. I acknowledge receipt of the PBA Purchasing Card, card number: XXXX-XXXX-XXXX-

2. I understand that my credit limit has been set at $XXXX with no daily or individual transaction limit. It is my responsibility to manage my purchases within the assigned limit. This limit may be increased or decreased at the discretion of my supervisor.

3. I acknowledge receipt of the Purchasing Card Policy. I further acknowledge that I have read, understand and agree to comply with all the terms and conditions for the use of my purchasing card as provided by the policy and procedures.

4. The Purchasing Card is provided to employees of the PBA based on their need to purchase business related goods and services. I understand the Purchasing Card is to be used for business related purchases only; personal charges are not to be made to the card.

5. The Purchasing Card is not to be used to circumvent procurement requirements set forth in the Tennessee Code Annotated, Section 12-10-124. I acknowledge that if I utilize the Purchasing Card in such a way as to circumvent procurement requirements, my Purchasing Card will be revoked, and I may face further disciplinary action.

6. I agree that the Purchasing Card shall only be used to purchase from suppliers who hold an active term contract with PBA, unless I have prior authorization from the Finance Department. If the Purchasing Card is used to purchase from suppliers who do not hold an active term contract with PBA without prior authorization, I acknowledge I am aware I will face disciplinary action up to and including termination. I further acknowledge that I am solely responsible for ensuring all purchases are made from suppliers who hold an active term contract or for gaining prior authorization.

7. The Purchasing Card is the property of the PBA. I understand that the PBA may revoke my right to use the card at any time for reasons that may be considered in the PBA's best interest.

8. I am the only person entitled to use the card issued to me. Misuse, inappropriate, unauthorized or fraudulent use of my card may result is disciplinary action, up to and including termination. I am liable for any transactions from misuse and the money owed may be withheld from my paycheck.
9. Even if the following actions have been delegated to a Cardholder Liaison, I am ultimately responsible for:

    - ✓ assigning accounting allocations in the Bank of America Works application
    - ✓ reconciling the monthly Cardholder statement
    - ✓ signing off on transactions supported by a credit card receipt
    - ✓ resolving any discrepancies by contacting the supplier, the PBA Finance Department and Bank of America, in a timely manner.

10. I agree to notify the Finance Department and Bank of America immediately should my card be lost or stolen or if I have knowledge of any lost or stolen PBA Purchasing Card.

11. I agree to surrender the card immediately upon request from my supervisor or the Director of Finance.

12. I agree to surrender the card prior to leaving employment with the PBA, whether due to retirement, voluntary or involuntary separation. Upon leaving employment with the PBA further use of the card is prohibited. If there are any transactions after separation from the PBA, I authorize the PBA to withhold any money owed on any unauthorized or prohibited transactions from my final paycheck.

_____

Cardholder Name Cardholder Signature Date

_____

Purchasing Card Administrator Date

7-APP FTA-Funded Procurement Terms and Conditions

FTA Terms and Conditions

1. Fly America Requirements (49 U.S.C. § 40118; 41 CFR Part 301-10) – Transportation of persons or property, by air, between a place in the U.S. and a place outside the U.S., or between places outside the U.S.

2. Buy America (49 U.S.C. 5323(j); 49 CFR Part 661) – Applicable for Construction Contracts and Acquisition of goods or rolling stock (valued at $150,000 or more).

3. Build America, Buy America Act (41 U.S.C. §§ 8301 - 8305) – Applicable for Construction Contracts and Acquisition of goods or rolling stock (valued at $150,000 or more).

4. Charter Bus Requirements (49 U.S.C. 5323(d); 49 CFR Part 604) – Applicable for Operational Service Contracts.

5. School Bus Requirements (49 U.S.C. 5323(F); 49 CFR Part 605) – Applicable for Operational Service Contracts.

6. Cargo Preference Requirements (46 U.S.C. 1241; 46 CFR Part 381) – Applicable to all contracts involving equipment, materials, or commodities which may be transported by ocean vessels.

7. Seismic Safety Requirements (42 U.S.C. 7701 et seq. 49 CFR Part 41) – Applicable to all contracts for the construction of new buildings or additions to existing buildings.

8. Energy Conservation Requirements (42 U.S.C. 6321 et seq.; 49 CFR Part 18) – The Energy Conservation requirements are applicable to all contracts.

9. Clean Water Requirements (33 U.S.C. 1251) - The Clean Water requirements apply if each contract and subcontract which exceeds $100,000.

10. Bus Testing (49 U.S.C. 5323(c); 49 CFR Part 665) – Bus Testing requirements pertain only to the acquisition of rolling stock/Turnkey vehicles intended for revenue service.

11. Pre-Award and Post Delivery Audit Requirements (49 U.S.C. 5323; 49 CFR Part 663) – Applicable only to the acquisition of Rolling Stock/Turnkey vehicles intended for revenue service.

12. Lobbying (31 U.S.C. 1352; 49 CFR Part 19; 49 CFR Part 20) – The Lobbying requirements apply to Construction/Architectural and Engineering/Acquisition of Rolling Stock/Professional Service Contract/Operational Service Contracts and Turnkey contracts.

13. Access to Records and Reports (49 U.S.C. 5325; 18 CFR 18.36(i); 49 CFR 633.17)

14. Federal Changes (49 CFR Part 18)

15. Bonding Requirements – Contracts or Subcontracts exceeding $100,000.

16. Clean Air Act Requirements (42 U.S.C. 7401 et seq; 40 CFR 15.61; 49 CFR Part 18) – All contracts exceeding $100,000, including indefinite quantities where the amount is expected to exceed $100,000 in any year.

17. Recycled Products/Recovered Materials Requirements (42 U.S.C. 6962; 40 CFR Part 247; Executive Order 12873) – All contracts for items designated by the EPA, when the purchaser or contractor procures $10,000 or more of one of these items.

18. Davis-Bacon and Copeland Anti-Kickback Act Requirements (40 USC 3141, *et seq.*; 18 USC 874; 29 CFR 3.11 and 5.5(a)) – Construction contracts over $2000.

19. Contract Work Hours and Safety Standards Act Requirements (40 USC 3701, *et seq.*) – Overtime requirements.

20. No Government Obligation to Third Parties – Applicable to all contracts.

21. Program Fraud and False of Fraudulent Statements and Related Acts (31 U.S.C. 3801 et seq.; 49 CFR Part 31 18 U.S.C. 1001; 49 U.S.C. 5307) – Applicable to all contracts and purchases.

22. Termination (49 U.S.C. Part 18; FTA Circular 4220.1F) – All contracts except contracts with nonprofit organizations and institutions of higher education.

23. Government-Wide Debarment and Suspension (Non-Procurement) (49 CFR Part 29; Executive Order 12549 & 12689; 31 U.S.C. 6101)

24. Privacy Act Requirements (5 U.S.C. 552) – Applies to all contracts.

25. Civil Rights Requirements (29 U.S.C. § 623, 42 U.S.C. § 2000; 42 U.S.C. § 6102, 42 U.S.C. § 12112; 42 U.S.C. § 12132, 49 U.S.C. § 5332; 29 CFR Part 1630, 41 CFR Parts 60 et seq.) – Applies to all contracts.

26. Breaches and Dispute Resolution (49 CFR Part 18; FTA Circular 4220.1F)

27. Patent and Rights in Data Requirements (37 CFR Part 401; 49 CFR Parts 18 and 19)

28. Transit Employee Protective Agreements (49 U.S.C. § 5310, § 5311, and § 5333; 29 CFR Part 215)

29. Disadvantaged Business Enterprise (DBE) (49 CFR Part 26)

30. Incorporation of Federal Transit Administration (FTA) Terms (FTA Circular 4220.1F)

31. Veterans Employment Preference (FTA Circular 4220.1F) – Contractors and sub-contractors shall give hiring preference to the extent practical to veterans.

PART A. FTA-FUNDED PROCUREMENT CHECKLIST

Note – This checklist is a guide in fulfilling regulatory requirements for FTA-funded formal procurements and FTA funded contract amendments. To ensure a thorough knowledge of related FTA requirements, however, or for clarification of requirements, refer to FTA Circular 4220.1F, available at http://www.fta.dot.gov/documents/FTA_Circular_4220.1F.pdf.

Section I – Base Bid Document Development (RFP, IFB, RFQ)

A. Procurement Type: ☐ Materials & Supplies ☐ Construction

☐ Rolling Stock ☐ Professional Service/A&E ☐ Operations/Management

Project/Product Description: _____

_____

B. Competition Method: ☐ Open Market ☐ Open Market Joint Procurement

☐ Intergovernmental Agreement (no cardinal changes)

☐ Sole Source (refer to FTA Cir 4220.1F, Para 3i(b))

C. Solicitation Document:

☐ Statement of work/technical specifications designed for open and fair competition.

☐ Quantities limited to actual need.

☐ Solicitation document contains no undue restrictions that would limit competition, (i.e., excessive qualifications, unnecessary experience, improper prequalification, excessive bonding, brand name only without allowing for "an equal"), in-State or geographic restrictions (except those stated in FTA Cir 4220.1F), conflict of interest.

☐ Identifies all bid evaluation factors.

☐ Specifies the contract type (Firm Fixed Price, Cost Reimbursement).

☐ Is not a prohibited or restricted contract type such as a Cost Plus a Percentage of Cost or Time and Materials contract. (See FTA Cir 4220.1F for Time and Materials contracts.)

☐ FTA required contract clauses and certifications (FTA Cir 4220.1F, Appendix D; FTA BPPM, Appendix A1). Also, see Part II below.

PART B. FEDERALLY-FUNDED CONTRACT REQUIREMENTS

REQUIRED CERTIFICATIONS, REPORTS, AND FORMS

This matrix indicates under what circumstances the listed requirement(s), report(s), and/or form(s) should be obtained.

REQUIREMENT	COMMENTS	REFERENCE
Bus Testing Certification	Procurements of buses and modified mass produced vans	§ 15.n(4)
TVM Certifications	All rolling stock procurements	§ 12.d(1)
Buy America Certification	Procurements of steel, iron or manufactured products exceeding $150,000	§ 14.a
Preaward Review	Rolling stock procurements exceeding procurements exceeding $100,000	§ 15.n(3)
Preaward Buy America Certification	Rolling stock procurements exceeding procurements exceeding $100,000	§ 15.n(3)
Preaward Purchaser's Requirement	Rolling stock procurements exceeding procurements exceeding $100,000	§ 15.n(3)
Post Delivery Review	Rolling stock procurements exceeding procurements exceeding $100,000	§ 15.n(3)
Post Delivery Buy America Certification	Rolling stock procurements exceeding procurements exceeding $100,000	§ 15.n(3)
Post Delivery Purchaser's Requirement	Rolling stock procurements exceeding procurements exceeding $100,000	§ 15.n(3)
On-Site Inspector's Report	Rolling Stock procurements for more than 10 vehicles	§ 15.n(3)
Federal Motor Vehicles Safety Standards (Preaward and Post Delivery)	Motor vehicle procurements (49 CFR 571)	§ 15n(3)
Lobbying	Procurements exceeding $100,000	§ 3.d(1)
Standard Form LLL and Quarterly Updates (when required)	Procurements exceeding $100,000 where contractor engages in lobbying activities	§ 3.d(1)

INDEPENDENT COST ESTIMATE **DATE:** _____

ITEM or PROJECT DESCRIPTION:

_____ _____

ESTIMATED COST: _____

COST BASIS:

☐ Similar purchases within the past year.

☐ Similar purchases with other organizations.

☐ Input from another City Department _____ __

☐ Cataloged pricing available to the general public.

☐ Other:

PROCUREMENT PLAN

☐ Request for Quotes ☐ IFB ☐ RFP ☐ Other:

PBA Lead

PRICE ANALYSIS **DATE:** _____

☐ Given the circumstances surrounding this procurement, the selected bid price of $_____ is fair and reasonable

☐ Though beyond the anticipated amount, the selected bid price of $_____is acceptable due to extenuating circumstances (justification/explanation attached).

☐ Due to complexity of the item or project, a cost analysis is required for this procurement. (Attach cost analysis documentation.)

☐ Price is unduly excessive and hereby rejected.

PROJECT ASSIGNMENT

PBA Public Building Authority

	City of Knoxville
	Knox County
	Other

Will this project be funded by an outside entity? ☐ Yes ☐ No If yes, what is the funding source? _____

PBA CONTACT INFORMATION

PROJECT MANAGER:		REQUEST DATE:	
PBA DEPARTMENT:	☐ PROPERTY DEVELOPMENT ☐ PROPERTY MANAGEMENT ☐ TELECOM ☐ OTHER _____		
EMAIL:		CONTACT NUMBER:	
NOTES(IF ANY):			

REQUESTOR INFORMATION (IF ANY)

NAME:		CONTACT NUMBER:	
DEPARTMENT:		EMAIL:	

The Public Building Authority has been asked to manage the following project(s). Based on the information available, we are providing a brief description along with a cost estimate. Please review the following information and provide an account number/funding source (if any) and check "Yes" or "No" for approval of each project. ***NOTE: IF SOURCE OF FUNDS IS FROM OUTSIDE ENTITIES (e.g. FEDERAL, STATE, OR OTHER GRANTS), THOSE FUNDS MUST BE IDENTIFIED BEFORE ANY WORK BEGINS.***

			Approved	
Project Detail/Description	Cost Estimate	Funding Source/Account Number	Yes	No
TOTAL COST ESTIMATE	$0.00	This is a Not to Exceed Cost Estimate. Any overages or changes will be submitted for approval prior to proceeding with work.		

AUTHORIZATION TO PROCEED ON APPROVED PROJECTS:

SIGNATURE			
TITLE		DATE	

PUBLIC RECORDS REQUEST FORM

The Tennessee Public Records Act (TPRA) grants Tennessee citizens the right to access certain public records that exist at the time of the request. The TPRA does not require records custodians to compile information or create or recreate records that do not exist nor does the public have access to documents and information exempted by state and federal law. Forms may be emailed to procurement@ktnpba.org.

To: The Public Building Authority of the County of Knox and the City of Knoxville, Tennessee, 505 Summer Place, PBA Suite G140 Knoxville, TN 37902

From: _____, Requestor;

_____ _____
Address Date

Is the requestor a Tennessee citizen?[1] ◯ Yes ◯ No

Request: ☐ Inspection (There is no fee for inspection unless redaction is required.[2]

☐ Copy/Duplicate

If costs for copies are assessed, the requestor has a right to receive an estimate. Likewise costs will be estimated for delivery other than on site pickup

Delivery preference: ◯ On-Site Pick-Up ◯ USPS First-Class Mail[3] ◯ Electronic ◯ Other: _____

Records Requested:

Provide a detailed description of the record(s) requested, including: (1) type of record; (2) timeframe or dates for the records sought; and (3) subject matter or key words related to the records. Under the TPRA, record requests must be sufficiently detailed to enable a governmental entity to identify the specific records sought. As such, your record request must provide enough detail to enable the records custodian responding to the request to identify the specific records you are seeking.

_____
Signature of Requestor & Date

_____
Signature of Public Records Request Coordinator & Date Received

[1] Only citizens of Tennessee have the right to inspect and receive copies of public records under the Tennessee Public Records Act, Tenn. Code Ann. § 10-7-503(a)(2)(A). However, governmental entities may make records accessible to individuals who are not citizens of Tennessee at their discretion.

[2] Note, Tenn. Code Ann. § 10-7-504(a)(20)(C) permits charging for redaction of records containing confidential information.

[3] Charges will apply.

PBA
Public Building Authority

COST ESTIMATE FOR PUBLIC RECORDS REQUEST

Note: There is no fee for inspection unless redaction is required. Tenn. Code Ann. § 10-7-504(a)(20)(C) permits charging for redaction of records containing confidential information.

1. Name of requester: _____
2. Number of pages to be copied: _____ ☐Estimated
3. Cost ☐Check box if no cost assessed.
   a. Per page letter or legal sized: $____ (justification required if more than $0.15) per black and white $____ (justification required if more than $0.50) per color;
   b. Per page other sized or other medium _____: $____ (justification required)
   c. Estimate of labor costs to produce the copy (for time exceeding 1 hour: _____
      Labor at $_____/hour for _____ hours(s).
      Labor at $_____/hour for _____ hours(s).
   d. Programming cost to extract information requested: _____
   e. Method of delivery and cost: _____ ☐Estimated
      ☐On-site pick-up ☐U.S. Postal Service ☐Other:_____
   f. Estimate of total cost to produce request: _____
4. Estimate provided to requester: ☐in person ☐by U.S.P.S. ☐by phone ☐Other:_____
5. Payment:
   a. Form of payment: ☐Cash ☐Check
   b. Amount of payment: _____
   c. Date of payment: _____
   d. Actual cost (and adjustment if prepaid): _____

_____ _____
Signature of Records Custodian Date of Estimate

Acknowledgement of Receipt of Records

I, _____, acknowledge receipt of the records requested on _____.

OR

☐Records delivered by mail/electronic delivery on: _____

_____ _____
Signature of Requester Date Records Retrieved/Inspected

_____ _____
Signature of Records Custodian Date Records Retrieved/Delivered/Inspected