Procurement
Policies and Procedures
Manual

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TABLE OF CONTENTS

Chapter		Page
	Introduction	4
I.	General Purchasing Procedures	6
	A. General Provisions	6
	B. Purchasing Procedures	10
	C. Sale of Surplus Property	15
II.	Quick Reference Guide	17
	A. Step by Step Guide	17
	B. Methods of Procurement	18
	C. Delegations	19
III.	Policies and Procedures	20
	A. Procurement Policies	20
	1. Executive Director Responsibilities	20
	2. Standards of Conduct and Conflict of Interest Policies	22
	3. Purchasing Policies	23
	4. Public Records Act	24
	B. Procedures	24
	1. Independent Cost Estimate	24
	2. Reasonableness of Price (Price/Cost Analysis)	25
	3. Best Value	28
	4. Tag-Ons	28
	5. Piggybacking/Joint Procurements/ Intergovernmental Procedures	29
	6. All FTA Federal Requirements to Apply	30
	7. Use of Brand Name	31
	8. Options	31
	9. Advance Payments	31
	10. Progress Payments	31
	11. Micro Purchases	32
	12. Small Purchases	32
	13. Competitive Procurement Process	32
	a. Invitation for Bids (IFB)	32
	b. Request for Proposals/Quotes (RFP/RFQ)	44
	14. "A/E" Request for Proposals/Quotes (RFP/RFQ)	49
	15. Sole Source Procurements	54
	16. Emergency Procurements	55

17. Amendments and Change Orders 55
18. Blanket Purchase Orders 56
19. Purchase Requisition/Order Procedures 56
20. Vendor Protest Procedures 57

IV. Contract Administration 62
A. Contract Administration Guidelines 62
B. Federal Procurement Requirements 62
C. Bonding Requirements 64
D. Insurance Requirements 66
E. Liquidated Damages 66
F. Indemnification 66
G. Termination 67
H. Dispute Resolution 68
I. Final Contract Approval and Distribution 69
J. Written Record of Procurement History (Project Control File) 69
K. Vendor File 70

V. Types of Contracts 71
A. Fixed Price Contracts 71
B. Cost Reimbursement Contracts 71
C. Indefinite Delivery Contracts and Task Order Contracts 72
D. Time and Materials Contracts 73
E. Labor Hour Contracts 73
F. Revenue Contracts 73
G. Contract Term Limits 73

Appendix List

Appendix A	FTA Master Agreement (rev. November 2025)
Appendix B	FTA Third Party Federal Clause Checklist
Appendix C	FTA Third Party Federal Clauses
Appendix D	Independent Cost Estimate (ICE) and Price Analysis
Appendix E	Procurement Documentation Checklist
Appendix F	BCAG/BRT Certification Forms
Appendix G	Sole Source Forms and Justification

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Introduction

The purpose of this Board of Directors approved Contracts/Purchasing Policy and Procedure Manual is to set forth the conduct of purchasing activity by the Butte County Association of Governments (BCAG) and Butte Regional Transit (BRT). These policies and procedures set forth the procurement methods and establish standards for obtaining goods and services, including construction, professional, and Architectural/Engineering services in support of BCAGs Overall Work Program (OWP) and necessary for the administration and operation of B-Line fixed route and on demand transit services. These procedures include guidelines for the solicitation, award and administration of formally advertised service and capital contracts, as well as the consultant selection, negotiation, award and administration of competitively negotiated professional and Architectural/Engineering contracts.

BCAG and BRT are responsible for the development of federal and state mandated work elements in relation to Metropolitan (MPO) and Regional Transportation Agency (RTPA) activities. All of these activities are specific to transportation planning, design and project implementation in coordination with County of Butte member jurisdictions. In addition, BRT is responsible for the operation of a public transportation system and the planning, design and programming of transportation projects and capital acquisitions specifically related to ongoing administration of public transit in Butte County. All contracts are managed through either the BCAG or BRT work plans, service plans, and budgets.

BCAG and BRT receive federal and state funding, and in some cases funding from non-profit 501.c.3 agencies and organizations. BCAG and BRT have adopted procurement policies and procedures that are consistent with federal regulations and the laws of the state of California. These procedures apply to every procurement irrespective of the source of the funds. Specific requirements for procurements funded by the Federal Department of Transportation (DOT) and the Federal Transit Administration (FTA) are also identified. These procedures apply to any revenue contract whose primary purpose is to either generate revenues in connection with a BCAG or BRT related activity, or to create business opportunities utilizing a DOT, FTA or State funded assets.

The procurement procedures are designed to:

- Instill public confidence in the procurement process of BCAG and BRT.
- Ensure fair and equitable treatment for all vendors, contractors and consultants who seek to engage with BCAG and BRT.
- Ensure maximum open and free competition in the expenditure of public funds.
- Provide the safeguards to maintain a procurement system of quality and integrity while avoiding acquisition of duplicative and unnecessary equipment.

The methods by which the foregoing is implemented are described in detail in the remainder of this document and the attachments hereto.

The procurement process is ongoing throughout the fiscal year. During budget preparation, the needs for all goods and services are identified that will be procured during the upcoming fiscal year (July 1 - June 30).

The Executive Director and authorized staff are responsible for the purchase of supplies, equipment,

and services for BCAG and BRT unless otherwise exempted by ordinance, Board policy, or this Contracts/Purchasing Policy and Procedure Manual.

The Executive Director and authorized staff are responsible for providing leadership and guidance in all phases of material utilization, including acquisition, storage, distribution, re-utilization and disposal. The Executive Director and authorized staff will also assist in all matters relating to pre-requisition investigation of possible supply sources and alternative product examinations, specification preparation, inspection and receiving practices, quality control, order follow-up, materials expediting, and the enforcement of the terms and conditions of purchase orders issued by BCAG.

The Executive Director and authorized staff will also assist in determining the appropriate method of acquisition and financing for their equipment needs.

The Executive Director is responsible for review of all BCAG contracts prior to approval by the Board of Directors or contracts that are approved by the Executive Director.

The Executive Director shall assure that the Policy and Procedures Manual is checked on an annual basis for compliance with and inclusion of Manuals affiliated with the use of federal aid programs through both the Department of Transportation and Federal Transit Administration. Each of these websites contains unique and duplicative A&E, Capital, Third Party and Construction Contract Management Manuals, Circulars and guidelines intended to provide boilerplate and inclusive contract clauses important to eh effective use of federal aid programs through respective state and federal Public Contracting Code. Revisions to guidelines and regulations occur with the documents and will be incorporated with annual revisions to the agency Policy and Procedures Manual.

FTA Master Agreements and other Federal and State mandates concerning procurements (including but not limited to 2 CFR Part 200, FTA Circulars, and Caltrans communications both through the District 3 Office and through BlackCat) will be monitored regularly for updates by the Procurement Officer for BCAG and BRT. Updates made to the FTA Master Agreement's clauses and clause language, as well as other laws and guidance, shall be incorporated into all new and currently active BCAG contracts as applicable.

Annual reminders are to be sent to all staff from the Procurement Officer related to updates to the procurement policies, purchasing limits, and internal documentation.

CHAPTER I

General Purchasing Procedures

Art. I. **General Provisions, §§ 1 – 8**
Art. II. **Purchases, §§ 9 – 16**
Art. III. **Sale of Surplus Property, §§ 17 and 18**

Section 1. Application of Chapter.
The provisions of this Chapter shall apply to the Butte County Association of Governments (BCAG) and the Butte Regional Transit (BRT) as defined in this Chapter.

Section 2. Purchasing Agent.
Pursuant to Government Code sections 25500 et seq, there is hereby created the office of BCAG/BRT purchasing agent. The Executive Director shall be vested with such powers, duties, and responsibilities as are prescribed by state law and this chapter. The Executive Director may delegate all or a portion of these duties to a designated staff member. The Executive Director or authorized staff member may make direct purchases by credit card or field purchase order within specific prescribed limits.

Section 3 Definitions.
As used in this Chapter, the following terms are defined as stated:

(a) Contractual services includes, yet is not necessarily limited to, any and all telephone, internet, data, gas, water, electric light and power services; towel, window washing, janitorial and cleaning service; the rental of equipment and machinery; and all other types of services required by BCAG and BRT, but not furnished or accomplished by its own employees.

(b) Emergency means an unforeseen circumstance in which an immediate purchase is necessary in order to avoid or prevent a substantial hazard to life, health or property, or a serious interruption of the operation of BCAG.

(c) Patented, proprietary or sole source items mean supplies, materials, labor or equipment that are produced/provided by one (1) manufacturer or are available from one (1) source, or services that are available from one (1) provider.

(d) Personal property means materials, supplies, machinery, furnishing, equipment and any other tangible article required for the conduct of BCAG and BRT business.

(e) Professional, Personal, Architect/Engineering services means any labor of a specialized, short-term (0 – 5 years or longer) or intermittent nature that may lawfully be performed by contract with private parties, including various consulting services. Professional and Personal services shall not include constructing, altering or improving buildings, roads, sewer and drainage facilities and other public works type projects.

(f) Purchase or purchases mean any contractual arrangement or transaction involving payment:

(1) for the acquisition of title to personal or real property;

(2) for the use by rental, lease, or otherwise of personal property;

(3) for the provision of services by independent contract or otherwise; or

(4) any combination of the foregoing.

(g) Responsible Bidder/Proposer means a bidder/proposer who submits a responsive bid/proposal; who has furnished when requested, information/certifications and data to prove that its financial resources, production or service facilities, service reputation and experience are adequate to make satisfactory delivery of the supplies, materials, equipment or contractual service on which it bids; and who has not violated, or attempted to violate, any provisions of this Chapter or any other local, state or federal procurement law or regulation.

(h) Supplier within Butte County means a firm or individual who regularly maintains a place of business and has an inventory of merchandise for sale within the County of Butte, BCAG and BRT market region.

(i) Supplies, materials or equipment mean any and all articles or things which shall be furnished to or used by BCAG and BRT, including any and all printing, binding, or publication of stationery, forms, laws, journals and reports, but excluding election supplies and services or materials furnished "in kind" in lieu of cash to indigents.

(j) Purchasing Agent shall mean any person, other than the Executive Director, who is authorized to purchase the aforementioned stated items above, on behalf of BCAG and BRT.

Section 4. Authority to Purchase.
Except as otherwise provided by law or this chapter, all purchases, regardless of the source of funding or revenue, shall be made in the name of BCAG or BRT, by written contract, approved by, and executed on behalf of either the Board of Directors or the authorized purchasing agent.

If an emergency occurs at times other than regular business hours and the services of The Executive Director are not immediately available, emergency purchases may be made by staff authorized by the Executive Director to make such purchases. Any such purchase shall be made by written contract in the name of BCAG or BRT and approved by and executed on behalf of BCAG or BRT by the Executive Director or authorized staff. Each such emergency purchase shall be reported in writing to The Executive Director as soon as possible. Such report may include a detailed explanation of the nature of the emergency, as well as the reasons necessitating the purchase.

Section 5. Persons Authorized to Requisition.
Authority to direct requisitions to The Executive Director for purchases is vested in the Executive Director of BCAG and BRT. The Executive Director may delegate this authority to any authorized staff by

filing and maintaining a written authorization. Each authorized staff authorizing such a requisition does so with the representation there are sufficient funds available in BCAG's or BRT's budget to support that purchase.

Section 6. Purchasing Procedures.
The Executive Director shall establish methods and procedures for the functioning of The Executive Director or authorized staff.

(a) The Executive Director shall prepare a purchasing procedure manual that sets forth the rules and regulations for the administration of this Chapter. Upon approval by the Board of Directors and the filing of a copy of the purchasing procedures manual with the Executive Director, by and through the purchasing agent, the rules and regulations contained in the manual shall have the same force and effect as the provisions of this chapter.

The purchasing procedure manual shall include such rules and regulations as are necessary to implement the provisions of this chapter, including, but not limited to the following:

(1) Procedures under which purchases without competitive bidding will be considered, approved and authorized

(2) Procedures for the identification and approval, without competitive bidding, of purchases of patented or proprietary items

(3) Procedures for competitive bidding for personal property

(4) Procedures for the establishment and maintenance of lists of bidders, pre-qualified or otherwise

(5) Procedures for providing reasonable notice for soliciting bids

(6) Procedures for the award of contracts

(7) Procedures for the implementation of joint purchasing policies and procedures with other public agencies (if applicable)

All provisions of the manual shall be subject to modification by the Board of Directors through the adoption of a Resolution. Any modification to the manual by the Board shall take effect immediately.

(b) The Executive Director shall develop and maintain standard purchasing forms, conditions for invitations to bid/propose, purchase orders, and purchase contracts, with approval as to form and legal sufficiency determined by BCAG/BRT counsel.

Section 7. Purchasing for Non-BCAG/BRT Public Agencies (If applicable and to be used only as approved by the Board in intermittent and uncommon circumstances)

The Executive Director shall perform any or all of the services provided for in this chapter on behalf of using agencies, upon their request, and subject to the following provisions:

(a) A Resolution which requests The Executive Director to make purchases for or on behalf of the using agency shall be adopted by the governing body of the using agency and filed with the purchasing agent. The Resolution shall:

(1) Set forth competitive bidding limits, advertising requirements and any other restrictions or requirements specified by state law governing purchases by the using agency; and

(2) Provide that for the period of participation the using agency shall:

(a) Make all purchases in its own name and for that agency only.

(b) Be responsible for payment directly to the supplier and for any tax liability and will hold BCAG harmless.

(c) Not have and will not have in force any other contract for like purchases.

(d) Not have obtained and does not have under consideration written bids or quotations from other suppliers for like purchases.

(b) Unless otherwise authorized by law, when making purchases on behalf of a using agency, The Executive Director shall follow the limits and requirements set forth in state statutes, this chapter, and the aforementioned purchasing procedure manual.

(c) The Board of Directors may, at its sole discretion, terminate such participation at any time after ten (10) days advance written notice mailed to the using agency. The ten (10) days shall be computed from the date that the notice is deposited in the mail.

(d) A charge may be made for the services performed under this section.

Section 8. Energy Conservation Considerations.
Prior to the purchase of all new equipment, except in the case of an emergency, The Executive Director or any other staff authorized to purchase such equipment shall evaluate and consider the energy consumption level and the anticipated operating costs over the useful life of the new equipment in addition to the initial cost of such equipment, whenever practical and feasible.

ARTICLE II. PURCHASES

Section 9. Purchases of Personal Property.
The Executive Director shall be authorized and is hereby required to make purchases of personal property for BCAG, BRT and using agencies.

Section 10. Purchases of Services.
The Executive Director is authorized to enter into agreements by which independent contractors/suppliers provide services to BCAG, BRT and using agencies.

The Executive Director shall let personal service contracts permitted by Government Code sections 25358 and 31000; provided, however, that the amount of any such contract shall not exceed the amount prescribed by Government Code section 25502.5 or as otherwise allowed or determined as necessary by the Board.

Any contract that is known at the time of bidding/proposing to exceed pertinent statutory limitations shall be subject to approval by the Board of Directors. Any other contract for such services let by The Executive Director shall contain a provision that such contract shall terminate automatically upon the date of provision of services or personal property or incurring of expenses, the cumulative total of which equals said statutorily prescribed amount.

Section 11. Term of Contracts.
The Executive Director shall not, absent prior approval by the Board of Directors, let any contract which exceeds a term of three years or as otherwise approved in specific agreements, for the rental or lease of personal property, or for the acquisition of services by an independent contract. No such contract shall exceed one (1) year unless The Executive Director finds that a term longer than one (1) year is required in order to promote efficiency, or for other reasons that a term of one (1) year is otherwise impractical. The Executive Director may let contracts to a term of not more than ten (10) years as required or determined by service availability, efficiency or specialized nature requiring a term of more than ten (10) years.

Section 12. Competitive Process Required.
Except as authorized, all purchases by The Executive Director shall be made pursuant to competitive solicitations or other approved and defined methods, and shall be let to the responsible party who submits a responsive bid, quote or proposal that is in the best interests of BCAG or BRT.

(a) The solicitation of proposals by newspaper publication shall not be required. The Executive Director shall utilize such processes to advertise intended purchases as are reasonably calculated to provide adequate competition or participation among suppliers or professional service providers to BCAG or BRT, including, but not limited to, the direct solicitation of offers from supplier lists, web - based advertisement or other advertisement methods.

(b) The purchasing procedures manual may contain procedures under which notice is given exclusively to pre-qualified suppliers or professional service providers and may identify other forms and procedures for the issuance of notice.

Section 13. Award of Contracts.
Awards shall be determined by and be based upon the best bid, quotation or proposal which, in the discretion of The Executive Director most adequately meets the needs of BCAG and BRT, or using agency using those criteria noted below.

(a) In determining the best bid, quotation or proposal, in addition to price, the Executive Director may consider the quality, availability, and functional suitability of the personal property, contractual services or professional services to the particular use intended or solicited application. The Executive Director may also consider other factors, including, but not limited to, the following:

(1) The ability, capacity and skill of the supplier, professional service provider or contractor to perform the service required;

(2) Whether the supplier, professional service provider or contractor can perform the service required, promptly or within the time specified, without delay or interference;

(3) The character, integrity, reputation, judgment, experience and efficiency of the supplier, professional service provider or contractor;

(4) The quality of the supplier's, professional service provider or contractor performance on previous contracts or services;

(5) The previous and existing compliance by the supplier, professional service provider or contractor, with laws and chapters relating to the contract or service;

(6) The sufficiency of the financial resources, and ability of the supplier, professional service provider or contractor, to source materials or labor, perform the contract or provide the service;

(7) The ability of the supplier, professional service provider or contractor, to provide future maintenance and service for the purchased product; and

(8) The number and scope of conditions attached to the bid, quotation or proposal.

(b) With respect to acquisitions of title to personal property or the use of personal property by rental, lease, or otherwise, the best proposal shall, as to products which equally satisfy intended uses, be the one submitted by a responsible supplier, professional service provider or contractor, at the lowest price.

(c) Personal services contracts valued above the amount prescribed by Government Code section 25502.5 shall be made on the basis of competition unless the Executive Director approves the procurement on a sole source basis. Personal services contracts, and sole source determinations when applicable, valued above the amount prescribed by Government Code section 25502.5 shall be approved by the Board of Directors.

Section 14. Exceptions to Competitive Process.
Purchases may, but need not be, let pursuant to a competitive process under the following circumstances:

(a) When the price to be paid under the purchase contract is Two hundred fifty thousand dollars ($250,000) or less, formal bidding is not required, unless otherwise required by state law; or

(b) When the price to be paid under the purchase contract is Fifty thousand dollars ($50,000) or less, informal proposals or quotations are not required, unless otherwise required by state law; or

(c) When a patented or proprietary item is being purchased; or

(d) In the event of an emergency; or

(e) When the following types of personal property or services are being acquired, obtained, rented or leased:

- Advertising;
- Books, recordings, motion picture film, subscriptions;
- Election supplies;
- Insurance;
- Public utility services;
- Travel services;
- Property or services provided by or through other governmental agencies; or property or services, the price of which is fixed by law.

Note: The above criteria are a guideline and may be superseded or amended as required to obtain services as necessary for BCAG and BRT.

Section 15. Bidding Procedures for Public Projects.
By Board of Director Resolution, BCAG and BRT have elected to become subject to the procedures established pursuant to the Uniform Public Construction Cost Accounting Act (California Public Contract Code Section 22000 et seq.) hereinafter referred to as the "Act" and has notified the state controller of such election. In compliance with section 22034 of said Act, this section is adopted as the procedure to letting work by informal bidding only for public projects within the limits set forth in section 22032 of said Act, as adjusted from time to time pursuant to section 22020 of said Act. All other work not exempted from public bidding requirements shall be advertised and awarded in accordance with applicable provisions of state law and BCAG policies.

(a) ***Delegation of Duties***

(1) Pursuant to Section 22034(e) of the Public Contract Code, the Board of Directors delegates the following duties to the Executive Director:

(a) As awarding officer, the Executive Director and authorized staff, shall solicit bids and award contracts for public projects funded by budget units managed under the Executive Director, and for public projects of other BCAG, BRT or state

agencies, as required or requested, which have engaged such officials to manage the design and construction of such projects; and

(b) The purchasing agent, or authorized staff, as awarding officer(s), shall solicit bids and award contracts for public projects for those BCAG, BRT or state agencies, as required or requested, not covered by Section 15 (a)(1)(a) above; and

(c) The purchasing agent, shall maintain a list of contractors as herein provided; and

(d) The Executive Director shall have the authority to consent to the substitution of subcontractors pursuant to the Subletting and Subcontracting Fair Practices Act California Public Contract Code 4100 et. seq).

(2) Pursuant to Section 22050(b) of the Public Contract Code, the Board of Directors hereby delegates to the Executive Director the authority to order any action pursuant to Section 22050(a)(1) in the event of an emergency.

(b) ***Contractors list.*** Contractor listings, identified according to categories of work, shall be maintained and administered (if applicable) under this section by The Executive Director or authorized staff. The contractor listing shall be developed and maintained in accordance with minimum criteria determined by the California Uniform Construction Cost Accounting Commission. The list may be revised from time to time to remove inactive names or add new names.

(c) ***Notice inviting informal bids or proposals.***

(1) All contractors on the list for the category of work being bid and/or all construction trade journals specified in section 22036 of the Public Contract Code, or any successor statute, may be mailed a notice inviting informal bids or proposals unless the product or service is proprietary.

(2) The notice inviting informal bids or proposals shall include a project description in general terms, the time and place for submission of bids/proposals, and information on how to obtain more detailed information on the project.

(3) All mailing of notices (if pursued) to contractors and construction trade journals pursuant to Section 15 (c)(1) above may be completed not less than ten (10) calendar days prior to the date that bids/proposals are due, if required.

Note: Most all services utilized by BCAG and BRT include federal and state funding and may not be applicable to local service providers. A listing service is commonly used to make requested services available to a wide net of prospective service providers. When this is not applicable or available, BCAG or BRT may selectively choose service providers in their local area for specific types of need services.

(d) ***Contract award.***

(1) The contract shall be awarded to the lowest responsible/responsive bidder/proposer if The Executive Director determines the bidder/proposer to be responsible, the bid/proposal to be responsive and reasonable, that sufficient funds have been appropriated and the bid/proposal is within the limits prescribed for award.

(2) If all bids/proposals received are in excess of the threshold established for formal bidding/proposing in section 22032(c) of the Act, the Board of Directors may by passage of a resolution by a four-fifths majority, award the contract at the threshold established in section 22034(f) of the Act or less to the lowest responsible/responsive bidder/proposer, if it determines the cost is reasonable.

(3) Upon completion of a project, The Executive Director may record a notice of completion.

(e) ***Change orders.*** Changes may be made to the contract with the following limitations:

(1) Appropriated funds are available to cover the cost of the change;

(2) The Board of Directors authorizes the purchasing agent, director of public works and road commissioner or their designees authority to order changes or additions in the work being performed under construction contracts within the limits prescribed in Section 20142(a) and (b) of the Public Contract Code; and

(3) The purchasing agent, or authorized staff consider the change to be reasonable.

(f) ***Exempt projects.*** The procedures set forth in this chapter shall not apply in any of the following situations:

(1) Where a public project qualifies as an emergency under Public Contract Code sections 20135(a), 20395, 22035 or other statutory authority;

(2) Where a public project is otherwise exempt from bidding/proposing requirements under Public Contract Code sections 20394, 20395, 22032(a) or other statutory authority.

(3) Where alternative procedures are available under Public Contract Code Section 22031 or other statutory authority and BCAG/BRT elects to use such alternative procedures.

(g) ***Alternative procedures.*** Nothing in this section shall prohibit the Board of Directors, purchasing agent, or their designees, from utilizing, as an alternative to the procedures set forth in the Act and this Section, the procedures set forth in Article 25, commencing with Section 20390, of the Public Contract Code.

Section 16. Splitting of requirements prohibited.
It is unlawful (California Public Contracts Code 20150.11) to split or separate purchases into multiple low value actions to (1) avoid dollar threshold limits to purchasing authority, or (2) avoid requirements for competitive bidding/proposing.

ARTICLE III. DISPOSAL OF SURPLUS PROPERTY

Section 17. Surplus Property.
The purchasing agent, or an authorized representative thereof, shall sell, lease, exchange, trade-in, or otherwise dispose of unneeded or surplus personal property of BCAG/BRT or any using agency that has an estimated value of more than ten thousand dollars ($10,000) to the highest responsible bidder/proposer in accordance with those procedures set forth in state law.

Bids/proposals may be received in writing in the form of competitive bids or proposals, by auction conducted by the Executive Director or authorized representative thereof, or both.

Surplus property having a value of less than ten thousand dollars ($10,000) shall be disposed of by the purchasing agent, or an authorized representative thereof, pursuant to the policy established and contained in the purchasing policy manual.

The rolling stock useful life benchmark (ULB) accepted by BCAG is as follows:

Property Type	Minimum Useful Life
Buses	
Large, heavy-duty transit buses including over-the-road buses (approximately 35' to 40' or larger including articulated buses)	At least 12 years of service or an accumulation of at least 500,000 miles
Small size, heavy-duty transit buses	At least 10 years or an accumulation of at least 350,000 miles
Medium-size, medium-duty transit buses	At least 7 years or an accumulation of at least 200,000 miles
Medium-size, light-duty transit buses	At least 5 years or an accumulation of at least 150,000 miles
Light-Duty Vehicles	
Light-duty vehicles used as equipment, employed in administrative and maintenance purposes (service vehicles) and to transport passengers (revenue service), such as regular and specialized vans, sedans, and light-duty buses, including all bus models exempt from testing in the current 49 CFR Part 665	At least 4 years or an accumulation of at least 100,000 miles

If rolling stock is removed from service before that ULB has been reached, documentation detailing how and why this decision has been reached will be retained in BRT records. Necessary documentation will also be sent to the funding agency for that rolling stock before disposition can occur.

Incidental Sales: When it is determined by the Executive Director that any surplus property is scrap, salvage material, or has been offered for auction already with no bids received, or the item has value of

less than ten thousand dollars ($10,000), the Executive Director may sell the item in an incidental sale.

For the purposes of this section, the term “incidental sale” means the sale of any item at a price, time, and place to be determined by the Executive Director to any buyer who is willing to pay the price requested, without first advertising such sale or auction.

When the item declared to be salvage or scrap material still has a monetary value reflected on BCAG/BRT books, that value must be the minimum sale price, unless authorized by the Executive Director to dispose of the property at a lower price.

Donations: Any surplus item deemed to be scrap or salvage, or which would incur a disposal cost, may be authorized by the Executive Director to be donated to a public entity, non-profit organization, or any employee, to the extent permitted by any applicable federal and state grant requirements. Any employee involved in the determination that an item has no market value may not later receive that item by donation.

Section 18. Purchase Prohibited.
No officer, agent or employee of BCAG or BRT assigned to the purchasing function or responsible for surplus property declarations shall either directly or indirectly submit a bid for or purchase of BCAG/BRT property that has been declared a surplus.

Severability. If any provision of this Ordinance or the application thereof to any person or circumstances is for any reason held to be invalid by a court of competent jurisdiction, such provision shall be deemed severable and the invalidity thereof shall not affect the remaining provisions or applications of the Ordinance which can be given effect without the invalid provision or application thereof.

Effective Date and Publication. This Ordinance shall take effect thirty (30) days after the date of its passage. The Executive Director is authorized and directed, before the expiration of fifteen (15) days after its passage, to publish this Ordinance once, with the names of the members of the Board of Directors voting for and against it, in the *Enterprise-Record*, a newspaper published in County of Butte, State of California.

Section 19. Disposition Proceeds.
Equipment that has reached the end of its useful life and for which the unit market value exceeds five thousand dollars ($5,000) requires reimbursement to FTA of the proportionate share of the fair market value or the net proceeds of the sale. Reimbursement to FTA will take place via pay.gov within 60 calendar days of sale of surplus property, and a receipt will be retained for BCAG/BRT records.

CHAPTER II

Quick Reference Guide

A. Step-by-Step Guide to the Procurement Process for BCAG/BRT programs, services, and supplies

Step 1: Staff must determine the following:

Project scope; Is the procurement for necessary and non-duplicative or unnecessary equipment Expected/estimated cost of the procurement; Funding source and whether the procurement is budgeted or non-budgeted; and Whether the procurement will be informal or formal.

Step 2: For procurement type, Staff should refer to the policies described herein. Any questions regarding the procurement process should be immediately discussed with the Executive/Deputy Director to ensure policies are being followed.

Step 3: The Executive/Deputy Director is responsible for the administration of the procurement, which includes obtaining the required approval, if necessary, before initiating the procurement process.

Step 4: Upon completion of the procurement process, the Executive/Deputy Director or authorized staff will issue a notice to proceed sign a proposal indicating approval to proceed with an ultimate execution of a contract or agreement defining the services to be provided.

Brief Description of Methods of Procurement

1. Goods and Services

Definition: Procurement of services, supplies, or other property, with the exception of Professional / Architectural and Engineering services or labor and/or materials for public works/construction projects.

Price Threshold	*Method of Procurement*	*Required Approval Level*
Less than $50,000	Micro Purchase	Deputy Director/Maintenance Facilities Manager/authorized staff
$50,000 – $250,000	Quotes/ *RFP /*IFB	Executive/Deputy Director
Greater than $250,000	RFP / IFB	BCAG Board of Directors

*RFP = Request for Proposals
*IFB = Invitation to Bid

Small purchases up to $250,000 to be supported by the procurement method best suited for the type and or availability of goods and services and may be attainable by sole source acquisitions only.

Please note that any amendments and/or change orders will be approved at the same price thresholds listed above.

2. Professional/Architectural and Engineering Services

Definition: Professional -The services of attorneys, physicians, architects, engineers, consultants, auditors, specialized printers, or other individuals or organizations possessing a high degree of professional, unique specialized technical skill or expertise, not adaptable to competitive bidding, or where the service involves a contract for special activities, negotiations for the acquisition of land, trash services, insurance bonds or any other service similar to the above, engaged for a particular project or series of projects.

Architectural and Engineering Services (A/E): Procurement of professional consultants for engineering, architectural, land surveying or other support services, such as program management, construction management, feasibility studies, preliminary engineering and design which require performance by a registered or licensed architect or engineer. **A/E services require the use of an A/E method of procurement.**

Price Threshold	*Method of Procurement*	*Required Approval Level*
Up to $50,000	RFP / A/E	Deputy/Executive Director
Greater than $50,000	RFP / A/E	Executive Director/BCAG Board of Directors

Please note that any amendments and/or change orders greater than 10% of the original Purchase Order may require approval by the BCAG Board of Directors at the discretion of the Executive Director.

3. Public Works/Construction Projects

Definition: Procurements of labor and/or materials for construction or public works projects.

Price Threshold	*Method of Procurement*	*Required Approval Level*
Up to $150,000	IFB	Deputy Executive Director
More than $150,000	IFB	BCAG Board of Directors

Please note that any amendments and/or change orders to the contract resulting from the solicitation process for public works/construction projects must be approved according to the following:

Type of Service	*Price Threshold*	*Required Approval Level*
Construction	More than 10% of PO.	Executive Director/BCAG Board of Directors
Equipment	20% of Bid Price.	Executive Director/BCAG Board of Directors

4. Sole Source

Definition: Procurement accomplished through solicitation or acceptance of a proposal from only one available source or solicitation of a number of sources in which competition is determined inadequate.

Price Threshold	*Method of Procurement*	*Required Approval Level*
Up to $50,000	Sole Source	Deputy/Executive Director
Greater than $50,000	Sole Source	BCAG Board of Directors

See Chapter III, Section B.14 for standards for justification for Sole Source.

C. Delegations

1. Except as otherwise provided in these procedures, all rights, powers, duties and authorities relating to the procurement of supplies, services and construction are vested in the Executive Director, Deputy Director, Project Manager or an authorized designee. The delegated authority contact for each procurement will be designated in the respective procurement.

2. The Executive Director is specifically authorized to delegate approval authority to a designee.

3. The BCAG/BRT Board of Directors is specifically authorized to execute approval authorized at any level.

4. The Executive Director is specifically authorized to execute approvals delegated to a designee.

CHAPTER III

Policies and Procedures

A. Procurement Policies

BCAG and BRT is governed by the ten members of the Butte County Association of Governments Board of Directors. Among other duties the BCAG/BRT Board is responsible for governing the operation of BRT, including all procurement policies. These policies serve as a base upon which procurement procedures can be developed.

The BCAG/BRT Board of Directors has related policies that serve to guide procurement activities. Those policies are summarized in this Section.

1. Executive Director, Deputy Director and Project/Transit Manager Responsibilities

a. Executive Director/Deputy Director

The Executive Director/Deputy Director has authority to authorize contract actions. Whenever the term "Executive Director/Deputy Director" shall appear in this document, the term shall also include authorized designee(s) including the Deputy Director, Project Manager and Transit Manager (The authority of the designees can vary significantly depending on the value and type of procurement action). The Executive Director/Deputy Director is responsible for updating these procurement procedures on an as-needed basis.

The Executive Director/Deputy Director shall be authorized to enter into, administer, and terminate contracts. However, the Executive Director/Deputy Director may bind BCAG/BRT only to the extent of the contracting authority delegated by the Executive Director. The Executive Director/Deputy Director shall ensure that a clear and accurate specification / scope of work is developed for each procurement.

The Executive Director/Deputy Director shall not enter into a contract unless the Executive Director/Deputy Director has ensured that all applicable requirements of Federal law, Federal regulations and Circulars, California law, and all other applicable BCAG/BRT procedures (including approvals) have been met.

The Executive Director/Deputy Director shall ensure that contractors receive impartial, fair, and equitable treatment in accordance with the policies specified in this Manual.

The Executive Director/Deputy Director or his/her designee shall be the primary BCAG/BRT employee to determine that contract prices are fair and reasonable prior to signing the contract or any changes thereto. The Executive Director/Deputy Director shall not make any purchase or enter into any contract for an amount exceeding his or her specifically delegated contracting authority.

The Executive Director/Deputy Director is responsible for soliciting bids and proposals; for serving as the chairperson of pre-bid and pre-proposal conferences, qualification hearings and proposal evaluation meetings; for conducting contract negotiation sessions; for managing the non-technical aspects of post award contract administration including negotiation of

modifications, claims, and supplemental agreements; and for maintaining all official contract files.

The Executive Director/Deputy Director is also responsible for such tasks as writing, preparing and assembling contract documents, including verifying that all FTA clauses are correct; obtaining necessary pre-solicitation approvals; advertising RFP's and IFB's, issuing amendments, obtaining post-bid opening approvals for award, conducting investigations of proposed Contractor's past performance, conducting consultant selection meetings for negotiated contracts and conducting negotiations, consulting with Project Managers to monitor Contractor's performance, and managing termination for default or convenience procedures whenever the need arises.

b. Project/Transit Manager

The Project Manager is a duly appointed B-Line employee who will be directly responsible for the daily technical administration of a contract including monitoring the contractor in its performance of the contract and performing those functions as specified by BCAG/BRT Policy. The Project Manager should be a responsible individual assigned to and familiar with the procedures and requirements of the user department. As such, the Project Manager is The Executive Director's technical expert and is at his/her disposal to assist in ensuring contractor compliance with technical requirements of the contract. Normally, the Project Manager approves or disapproves the technical acceptability and timeliness of the work completed and the invoices submitted by the contractor for payment.

The Project Manager shall ensure that sufficient unencumbered funds are available for obligation for each contract.

The Project Manager shall develop a clear and accurate specification / scope of work for each procurement.

The Project Manager is also the person to whom reports of warranted equipment malfunctions, failures or any problems with the contractor's performance are submitted, pursuant to the specific authority granted by the user department manager. The Project Manager makes the initial request for contractor remedial action. The Executive Director becomes involved when and if the lapse constitutes a serious, i.e., repetitive, or unresolved, breach of contractor's civil or contractual responsibility.

Should the contractor fail to respond in a timely or adequate manner to rectify any problem, the Project Manager notifies The Executive Director that an apparent breach of the contract exists. After investigating the situation, The Executive Director and the Project Manager take any steps necessary and available to enforce BCAG/BRT rights under the contract. This may include withholding payment, imposing liquidated damages, negotiation and recommending a settlement, terminating the contractor for default, or referring the matter for legal action.

The Project Manager also attends pre-bid and pre-proposal conferences as the technical expert, conducts investigations of proposed contractor's technical past performance, questions prospective contractors during clarifications and discussions as to their technical capability to perform the contract, assists The Executive Director with contract negotiations, ascertains the availability of funds prior to asking The Executive Director to initiate the negotiation and approval process for change orders, contract modifications and supplemental agreements, and issues directions to correct or replace defective items of work.

2. Standards of Conduct and Conflict of Interest Policies

There will be uniform and equitable application of the Standards of Conduct of BCAG/BRT involving all activities associated with the procurement of goods and services. This section defines responsibility to identify and prevent a real or apparent conflict of interest.

a. Conflict of Interest

The following groups shall not participate in or attempt to use their official position to influence any purchasing decisions in which they or persons related to them have a financial interest:

i) The employee, officer, agent or Board member
ii) Any member of his/her immediate family
iii) His or her partner, or
iv) An organization that employs, or is about to employ, any of the above.

In cases where there may be a benefit, either direct or indirect, there is a responsibility to report in writing such benefit to the Board of Directors. If anyone fails to report such benefit, he or she will be subject to any disciplinary proceeding deemed appropriate by the Board of Directors, including possible dismissal.

Members of the groups listed in item (a) above shall be subject to the conflict of interest laws of the state of California. Anyone who violates the standards of the law shall be subject to the penalties, sanctions or other disciplinary actions provided for therein.

b. Gratuities, Kickbacks, and Contingent Fees

No member of the groups listed in item (a) above shall solicit, demand or accept from any person, contractor, potential contractor, or potential subcontractors, anything of a monetary value, including gifts, gratuities, favors, etc; except when the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. Anyone failing to adhere to the above will be subject to any disciplinary proceeding deemed appropriate by BCAG/BRT, including possible dismissal.

c. Confidential Information

No member of the groups listed in item (a) above shall use confidential information for his or her actual or anticipated personal gain, or the actual or anticipated personal gain of any other person related to them by blood, marriage, or by common commercial or financial interest. Anyone failing to adhere to the above will be subject to any disciplinary proceeding deemed appropriate by BCAG/BRT, including possible dismissal.

d. Organizational Conflict of Interest

Each entity that enters into a contract with BCAG/BRT is required, prior to entering into such contract, to inform BCAG/BRT of any real or apparent organizational conflict of interest. Such organizational conflict of interest exists when the nature of the work to be performed under a contract may, without some restriction on future activities, results in an unfair competitive advantage to the contractor, or may impact the contractor's objectivity in performing the contract work.

3. Purchasing Policies

a. Equal Employment Opportunity/Affirmative Action

All procurement documents issued by BCAG/BRT require all interested vendors to certify:

i. That the vendor does not discriminate against any employee or applicant for employment, because of race, religion, sex, age, creed, color, disability or national origin;

ii. That the vendor is in compliance with all Executive Orders and federal, state and local laws regarding fair employment practices and non-discrimination in employment; and

iii. That the vendor agrees to demonstrate positively and aggressively the principle of equal opportunity in employment.

b. Disadvantaged Business Enterprise

BCAG/BRT has determined that disadvantaged business enterprises as defined in 49 C.F.R. Part 26 shall have the opportunity to compete fairly for contracts financed in whole or in part with Federal funds. Accordingly, all BCAG/BRT procurements funded with Federal funds may include, as appropriate, the use of goals for the procurement of all classes of goods and services, as set forth in BCAG/BRT Disadvantaged Business Enterprise (DBE) program.

Note for FY 2026/27 that the FTA has asked all DBE businesses to re-certify and this section cannot be enforced at the current time.

c. Cooperative Procurement

When circumstances warrant, BCAGF/BRT may attempt to fill requirements through a cooperative purchasing agreement (without independent bids or quotations) with the State of California, or with other appropriate public agencies.

All cooperative procurements will be reviewed by the Procurement Officer prior to purchase in order to insure all federally required contract clauses are in place. In the instance of a missing clause, or clauses, the Procurement Officer shall prepare an addendum for the purchaser to be included with the purchase.

In the instance of ordering rolling stock under cooperative procurement, the Procurement Officer and purchaser will collectively confirm that all certifications and assurances, and acceptance testing has been completed within the necessary timeframe prior to delivery of the rolling stock.

d. Open Competition Required

All procurement transactions will be conducted in a manner providing full and open competition. Some of the situations considered to be restrictive of competition include, but are not limited to:

i. Unreasonable requirements placed on firms in order for them to qualify to do business;

ii. Unnecessary experience and excessive bonding requirements;

iii. Noncompetitive pricing practices between firms or between affiliated companies;

iv. Noncompetitive award to any person or firm on retainer contracts;

v. Organizational conflicts of interest. An organizational conflict of interest means that because of other activities, relationships, or contracts, a contractor is unable or potentially unable, to render impartial assistance or advice to BCAGF/BRT ; a contractor's objectivity in performing the contract work is or might be otherwise impaired; or a contractor has an unfair competitive advantage.

vi. The specification of only a brand name product without listing its salient characteristics and not allowing an equal product to be offered;

vii. Exclusionary or discriminatory specifications; and

viii. Any arbitrary action in the procurement process.

e. Avoidance of Duplicative or Unnecessary equipment or Service Acquisitions

Prior to proceeding with any solicitation for services or equipment, the Executive Director or Deputy Director in association with any authorized personnel (User) must be in agreement that a service or equipment acquisition is of benefit and provides a necessary, currently non-provided function or service. Consultation with the identified user is necessary to identify the need and develop an understanding of the best way to acquire and utilize the service or equipment.

4. Public Records Act

All bids and proposals received become the exclusive property of BCAGF/BRT. At such time a contract award is recommended to the BCAG/BRT Board of Directors, all bids and proposals become a matter of public record and shall be regarded as public records, with the exception of those elements in each proposal which are trade secrets as that term is defined in California Government Code 6254.7 and which are so marked as "TRADE SECRET," "CONFIDENTIAL" OR "PROPRIETARY." BCAG/BRT shall not in any way be liable or responsible for the disclosure of any such records or portions thereof, including, with limitation, those so marked if disclosure is deemed required by law or by an order of a court. Bids or proposals that indiscriminately identify all or most of the bid or proposal as exempt from disclosure without justification may be found technically unacceptable

B. Procedures

1. Independent Cost Estimate (ICE)

An independent cost estimate shall be performed on all FTA-funded procurements prior to receiving bids or proposals, if feasible. The extent of the cost estimate will depend on the type of procurement being pursued. For example, a cost estimate for a micro purchase (see explanation below) may only involve phone calls to obtain price quotes; while a cost estimate for the procurement of a commuter bus would require a more involved process to assess the market and to develop a reasonably accurate estimate. The cost required to research and prepare the estimate should not outweigh the potential benefits of the estimate. An independent estimate can be obtained from different sources including the following:

a. Published competitive prices
b. Results of competitive procurements
c. Estimates by in-house estimators
d. Outside estimators

The Federal Transit Authority (FTA) Circular 4220.1 F, Chapter VI, Section 6, requires transit authorities to conduct a price or cost analysis for every procurement action, including contract modifications and change orders.

2. Reasonableness of Price (Price/Cost Analysis)

In all FTA-funded procurements, a price or cost analysis shall be used to determine the reasonableness of the bid price.

The Executive Director, or authorized designee(s), may conduct a price analysis in evaluating a bid price. If a valid price analysis cannot be completed, a cost analysis of the bid price may be conducted.

"Price analysis" is the more frequently used technique used to determine the fairness and reasonableness of proposed contract prices because it is less complex and time consuming than cost analysis. While there are a number of ways to approach a price analysis, the technique involves evaluating only a proposed price and not its separate cost and profit elements, using data that is verifiably independent from an offeror's data.

In order of preference, the accepted ways to conduct price analysis are:

a. Adequate Price Competition - A comparison of competitively priced bids or proposals received in response to a solicitation, wherein the contract will be awarded to the responsive and responsible offeror submitting the lowest evaluated price, under the following conditions:

    i. At least two responsible offerors have responded;
    ii. Each offeror satisfies the requirements of the solicitation, and has submitted a responsive price offer; and
    iii. The offerors must independently contend for the contract award.

If after meeting the three conditions above, price competition is adequate to assure a

reasonable price unless:

i. The solicitation was made under conditions that unreasonably deny one or more known and qualified offerors an opportunity to compete;
ii. The low competitor has such an advantage over the competitors that it is practically immune to the stimulus of competition; or
iii. Factual data proves that the lowest final price is not reasonable.

b. Prices Set by Law or Regulation - A review of the rate schedules set by the applicable law or regulation. Note that the independent regulatory body sets the effective rates for utilities.

c. Established Catalog Prices - A comparison of competitive published price lists, published market prices of commodities, similar indices and discount or rebate arrangements, given that:
    i. Established catalog prices exist;
    ii. The items procured are commercial in nature;
    iii. The items sold are in substantial quantities;
    iv. The items sold are to the public

d. Comparison to Previous Purchases - A comparison of proposed prices with those received in prior procurement actions for the same or similar end-items. To ensure that 'like' comparisons, the Contract Administrator must review prior contract files to verify that the prior procurements prices were competitive, fair and reasonable.

    The Contract Administrator must also review prior procurements for factors that can cause price variations, such as changes in quantity, quality, delivery schedules, the economy, an inclusion of non-recurring costs such as design, capital equipment, etc.

e. Comparison to a Valid Independent Estimate - A comparison of proposed prices with the ICE prepared prior to the opening of bids or proposals.

This form of price analysis alone is seldom adequate to warrant a determination that the price is reasonable. It is important that the facts, assumptions, and judgment used by the estimator are verified, so close review of the data used to develop the estimate is necessary.

f. Value Analysis - rough yardsticks analysis such as dollar per pound, per horsepower, or other unit to compare the differences in economy or efficiency of items to determine their worth from a functional perspective. Consider performance expectations for the item procured, as it relates to the Project Manager or representative from the department that will use the item.

Price comparison tools include but are not limited to the following:

a. Competitors' Catalogs - should all be issued during the same time frame;
b. Newspaper Advertisements - must be current;
c. Government Catalogs and Federal Supply Schedules – good sources for price comparison even if cannot be used as a procurement source;
d. Industrial Catalogs – provide data by industry or functionality. For example, the National Mechanical Contractor Estimator (NMCE) is an excellent source for pricing mechanical items;
e. Government Price Index - can be used with historical prices to analyze, compare, and predict current prices for a specific product or service; Use as a comparison approach to price and cost analysis.
f. Website searches

The Contract Administrator is responsible for conducting a price analysis for competitively awarded contracts unless determined by the Procurement Manager that another official, such as an auditor, should do so.

“Cost analysis” is the review and analysis of a contractor's cost or pricing data and of the factors applied in projection from the data to the estimated costs in order to form an opinion on the degree to which the contractor's proposed costs represent the cost of performance of the contract, assuming reasonable economy and efficiency.

As compared to price analysis, cost analysis involves a more detailed review of the offeror's proposal.
Normally, price analysis may be accomplished through one or more of the following activities:

The comparison of prior quotations and contract prices with current quotations for the same or similar end items (to provide a suitable basis for comparison, appropriate allowances must be made for differences in such factors as specifications, quantities ordered, time for delivery, etc.).

The use of "yardsticks" (such as dollars per pound, per horsepower, or other units) to point up apparent gross inconsistencies which should be subjected to greater pricing inquiry.

The comparison of prices set forth in published price lists issued on a competitive basis, published market prices of commodities, and similar indicators, to BBCAG/BRT with discount or rebate arrangements.

The comparison of proposed prices with estimates of cost independently developed by personnel within BCAG/BRT.

The comparison of prices paid by other users (government or commercial) of the same or similar items to the proposed prices.

a. Normally, cost analysis may be accomplished through the following:

i. Verify contractor's cost data.

ii. Evaluate specific elements of costs and project these elements to determine the effect on prices of such factors as:

1. The necessity for certain costs;
2. The reasonableness of amounts estimated for the necessary costs;
3. Allowances for contingencies; and
4. The basis used for allocations of particular overhead costs to the proposed contract.

b. When the necessary data is available, compare the contractor's estimated cost with:

i. Actual costs previously incurred by the contractor;
ii. The contractor's last prior cost estimate for the same or similar estimates;
iii. Current cost estimates from other possible sources; and
iv. Prior estimates or historical costs of other contractors manufacturing the same

or similar items.

c. Forecasting future trends in costs from historical experience:

i. In periods of either rising or declining costs, an adequate cost analysis must include some evaluation of the trends.

ii. In cases involving recently developed, complex equipment, even in periods of relative price stability, trend analysis of basic labor and materials costs should be undertaken.

In performing a cost analysis, there are three questions that should be asked in the examination of costs, particularly those in the overhead area:

(1) Is the cost allowable in accordance with guidelines in Section 31 of the Federal Acquisition Regulations (FAR);

(2) Is the cost allocable to the particular project; and,

(3) Is the cost reasonable?

A cost analysis is also a way to evaluate whether the contractor is applying sound management in proposing the application of resources to the contracted effort and whether costs are proper, allowable and allocable, in accordance with federal cost principles and procedures.

Contract Administrators are to use federal cost principles stated in the Federal Acquisition Regulation (FAR) Chapter 48 CFR 31 when conducting cost analyses. This is necessary to ensure that the costs are consistent with the principles, and therefore 'allowable' for BCAG/BRT to pay for with federal funds. FAR 48 CFR 31.201-2 defines 'allowable costs,' which are important considerations with cost-plus-fixed fee contracts, cost- reimbursement contracts, and when the Contract Administrator evaluates and negotiates cost estimates submitted by a bidder to determine prices for fixed-price contracts. Additionally, the 'common grant rule,' cited in FAR Chapter 49 CFR 18.22 and OMB Circular A-87, requires that federal cost principles be used to determine allowable costs for commercial ('for-profit') organizations.

If only one bid is received, the sole bidder must cooperate with BCAG as necessary in order for its bid to be considered for award. A new solicitation of bids may be made if the single bid price appears unreasonable or if no determination is made as to the reasonableness of the single bid.

3. Best Value

"Best Value" is a selection process in which proposals contain both price and qualitative components, and award is based upon a combination of price and qualitative considerations. Qualitative considerations may include technical design, technical approach, quality of proposed personnel, and/or management plan. The award selection is based upon consideration of a combination of technical and price factors to determine {or derive} the offer deemed most advantageous and of the greatest value to the procuring agency.

4. Tag-ons

"Tag-on" is defined as the addition of work (supplies, equipment or services) that is beyond the scope of the original contract that amounts to a cardinal change as generally interpreted in Federal

practice by the various Boards of Contract Appeals. "In scope" changes are not tag-ons. The use of tag-ons is prohibited and applies to the original buyer as well as to others.

5. Piggybacking/Joint Procurement/Intergovernmental Procurements

"Piggybacking" is an assignment of existing contract rights to purchase supplies, equipment, or services. BCAG/BRT will adhere the requirements of FTA Circular 4220.1.E. Piggybacking is permissible when the solicitation document and resultant contract contain an assignability clause that provides for the assignment of all or a portion of the specified deliverables as originally advertised, competed, evaluated, and awarded. If the supplies were solicited, competed and awarded through the use of an indefinite-delivery-indefinite-quantity (IDIQ) contract, then both the solicitation and contract award must contain both a minimum and maximum quantity that represent the reasonably foreseeable needs of the party(s) to the solicitation and contract. If two or more parties jointly solicit and award an IDIQ contract, then there must be a total minimum and maximum.

a. Acquisition Through Assigned Contract Rights (Piggybacking) – Although FTA does not encourage the practice, a recipient may find it useful to acquire contract rights through assignment by another recipient. A recipient that obtains contractual rights through assignment may use them after first determining that the original contract price remains fair and reasonable, and the original contract provisions are adequate for compliance with all Federal requirements. The recipient need not perform a second price analysis if a price analysis was performed for the original contract. However, FTA expects the recipient to determine whether the contract price or prices originally established are still fair and reasonable before using those rights. See, FTA's "Best Practices Procurement Manual" for further information about procurements through assignment of another's contract rights. The recipient using assigned contract rights is responsible for ensuring the contractor's compliance with FTA's Buy America requirements and execution of all the required Buy America pre-award review and post-delivery review certifications. For further details, please refer to FTA's Pre-Award and Post- Delivery Handbook for buses and railcars, which contain copies of those certifications. The recipient seeking to use assigned contract rights will not usually be able to determine whether the assigning recipient originally procured unreasonably large quantities. Before proceeding with the assignment, however, FTA does expect the recipient seeking the assignment to review the original contract to be sure that the quantities the assigning recipient acquired, coupled with the quantities the acquiring recipient seeks, do not exceed the amounts available under the assigning recipient's contract.

b. Alternatives to Assigned Contract Rights – Assignments limit a recipient's choices to specific property and services acquired to meet another recipient's particular needs and may be less suited to the needs of the recipient seeking the assignment.

c. Joint Procurements. Recipients should consider combining or "pooling" their procurements to obtain better pricing. In general, joint procurements are often more desirable than procurements through assignment because an assignment does not represent the combined buying power of more than one purchaser at the time when prices are established. A joint procurement may also offer the advantage of permitting the parties to acquire property and services more closely responsive to each purchaser's material requirements than would be available through assignment of existing contract rights. FTA cautions, however, that if two or

more parties jointly solicit and award an IDIQ contract, total minimum and maximum quantities are expected to be stated in the solicitation and contract.

Intergovernmental Procurements – May provide attractive procurement opportunities as noted by the following:

i. STATE OR LOCAL GOVERNMENT PURCHASING SCHEDULES OR PURCHASING CONTRACTS – FTA uses the term "state or local government purchasing schedule" to mean an arrangement that a State or local government has established with several or many vendors in which those vendors agree to provide essentially an option to the State or local government, and its subordinate government entities, to acquire specific property or services in the future at established prices. These arrangements are somewhat similar to the General Services Administration's (GSA) Cooperative Purchasing Program available for Federal Government use. If the State or local government wishes to permit others to use its schedules, the State or local government might seek the agreement of the vendor to provide the listed property or services to others with access to the schedules, or it may permit the vendor to determine whether or not it wishes to do so. CAUTION: The term "State or local government purchasing schedule" does not include intergovernmental purchasing schedules to be the type of State or local intergovernmental agreements.

   A. Use.
      1. Use Permitted - FTA's policies are as follows:
         a. General – The Common Grant Rule for governmental recipients encourages recipients and Subrecipients to enter into State and local intergovernmental agreements for procurements of property or services, and
         b. State or Local Government Permission Required – If so permitted by State or local authorities, a non-governmental recipient may also use State and local sources of property and services. This is because 49 C.F.R.§ 18.36(a) permits States to use their own policies and procedures they use for their own purchases, not because those schedules are "State intergovernmental agreements," and

   B. Use Restricted – Although the Common Grant Rule for government recipients, 49 C.F.R. § 18.36(b)(5), provides that "grantees and subgrantees are encouraged to enter into State and local intergovernmental agreements for procurements of common goods and services":
      1. Prohibited – FTA does not authorize grantees to consider intergovernmental purchasing schedules to be the type of State or local intergovernmental agreement to which that Common Grant Rule is referring, but
      2. Permitted – FTA recognizes joint purchases to be the only type of intergovernmental agreement suitable for use by its grantees and subgrantees.

6. All FTA and Federal Requirements Apply – When obtaining property or services in this manner, the recipient must ensure all Federal requirements, required clauses, and certifications (including Buy America) are properly followed and included, whether in the master intergovernmental contract or in

the recipient's purchase document. One way of achieving compliance with FTA requirements is for all parties to agree to append the required Federal clauses in the purchase order or other document that effects the recipient's procurement. When buying from these schedules, the recipient should obtain Buy America certification before entering into the purchase order. If the product to be purchased is Buy America compliant, there is no problem. If the product is not Buy America compliant, the recipient will need to obtain a waiver from FTA before proceeding.

7. Use of Brand Name

When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equal" description may be used as a means to define the performance or other salient characteristics of a procurement. The specific features of the named brand which must be met by offerors shall be clearly stated.

8. Options

B-Line may include options in contracts. An option is a unilateral right in a contract by which, for a specified time, a grantee may elect to purchase additional equipment, supplies, or services called for by the contract, or may elect to extend the term of the contract. If BCAG/BRT chooses to use options, the requirements below apply:

a. Evaluation of Options

The option quantities or periods contained in the contractor's bid or offer must be evaluated in order to determine contract award. When options have not been evaluated as part of the award, the exercise of such options will be considered a sole source procurement.

b. Exercise of Options

i. BCAG/BRT must ensure that the exercise of an option is in accordance with the terms and conditions of the option stated in the initial contract awarded.

ii. An option may not be exercised unless BCAG/BRT has determined that the option price is better than prices available in the market or that the option is the more advantageous offer at the time the option is exercised.

9. Advance Payments

BCAG/BRT does not authorize and will not participate in funding payments to a contractor prior to the incurrence of costs by the contractor unless prior written concurrence is obtained from FTA. There is no prohibition on BCAG/BRT use of local match funds for advance payments. However, advance payments made with local funds before a grant has been awarded, or before the issuance of a letter of no prejudice or other pre-award authority, are ineligible for reimbursement.

10. Progress Payments

BCAG/BRT may use progress payments provided the following requirements are followed:

a. Progress payments are only made to the contractor for costs incurred in the performance of the contract.

b. BCAG/BRT must obtain adequate security for progress payments. Adequate security may include taking title, letter of credit or equivalent means to protect the B-Line's interest in the progress payment.

11. Micro Purchases

Purchases below $50,000 may be made without obtaining competitive quotations if it is determined by the Executive Director that the price is fair and reasonable. The Executive Director will document how this determination was derived. The Davis-Bacon Act applies to public works/construction contracts exceeding $2,000.

12. Small Purchases

For procurements between $50,000 and $250,000 for professional services and for goods and other services, at least two (2) written quotations from vendors are required, unless otherwise determined by the Executive Director. Oral quotes will be accepted with written confirmation received in 24 hours. The responsibility for soliciting quotations rests with the Executive Director. Appropriate documentation, including but not limited to a list of the vendors contacted, a fair and reasonable price determination and the quotes received, shall be filed with the project documentation.

13. Competitive Procurement Process

Competitive procurement procedures are used for procurement of professional services, goods and other services valued greater than $250,000 and public works/construction projects valued at greater than $150,000. The two types of competitive procurements are the Request for Proposals and the Invitation for Bids. The following procedures describe each type in detail.

a. Invitation for Bids (IFB)

The Invitation for Bids (IFB) competitive procurement process is used for public works/ construction projects whose cumulative value will exceed $30,000, and, if appropriate, purchases of goods and services whose cumulative value will exceed $25,000. The IFB process is coordinated by the Executive Director/Deputy Director.

The IFB method of procurement is employed when all of the following apply:

- A complete, adequate and realistic specification or purchase description is available
- Two or more responsible suppliers are willing and able to compete effectively for the contract
- The procurement lends itself to a firm-fixed price contract, and selection of the successful bidder can be made on the basis of price
- Scope of work is clearly defined
- No discussion with bidder is needed

The following general rules apply to scopes of work and specifications:

- A common basis for bidding must be provided. Specifications and scopes of work should set out the essential characteristics of the items or services to be procured. Whenever possible, the expected quality of services to be provided or the performance characteristics of the item should be specified.

- Specifications and scopes of work should not call for features or quality levels which are not necessary to meet the bid requirements.

- All optional items should be identified by B-Line, and the solicitation documents should set forth the expected needs and the manner in which the related bid prices will be considered.

- In order to foster free and open competition, specifications may not require a "brand name" product without allowing an "or equal" product to be offered. The specifications would, accordingly, describe the performance or other salient characteristics of the brand name product.

- Because standard specifications and requirements allow for more efficient operations and result in lower prices, they should be used wherever suitable. Maximum use should be made of industry, federal, state and local government specifications and requirements.

Issuance of IFB

1. The Project Manager shall initiate a purchase requisition, in accordance with the procedures set forth in Chapter III.B.18 at the start of the IFB process.

2. A notice of an Invitation for Bid (IFB) will be prepared by the Executive Director/Deputy Director, and will be advertised, and, if the value of the procurement is over $150,000 for public works / construction or $250,000 for goods and other services, must be published in a newspaper of general circulation, or targeted website used for solicitation of bids, no less than two weeks prior to the date set for bid closing. The notice must include the following minimum information:

    - A general description of the services or goods to be purchased
    - Where to request an IFB
    - The location, day and time of the Pre-Bid Conference (If one is scheduled)
    - The location, last day and hour bids will be accepted (deadline)
    - Bid Acceptance Period
    - Whether Federal funds are being used for the procurement.

IFB Packet

The Executive Director/Deputy Director, or authorized designee, will coordinate the release of the IFB packet. The IFB packet will include the following:

- Instructions to Bidders - General instructions concerning the bid format, pre-contractual expenses, contract conditions, pre-bid conferences, and other information.

- Submittal Documents – Required forms to be completed by the bidder and submitted with

the bid.

- Exhibits - These can be documents which display key facts, specifications, maps, report formats, and other important information to clearly define the goods or services needed in order for the bidders to properly respond to the IFB.

- General Terms and Conditions - General provisions concerning the IFB process.
- Special Terms and Conditions – Provisions unique to each IFB, if applicable, will be included (e.g., special terms of the resulting contract; any modifications to general terms and conditions; milestones; and special payments procedures).

- Technical Specifications - Specifications shall incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Specifications shall also seek to promote overall economy for the purposes intended and encourage competition in satisfying BCAG/BRT needs. Descriptions shall not contain features that unduly restrict competition. The description shall include a statement of the qualitative nature of the material, product, or service to be procured. When necessary, the description shall set forth those minimum essential characteristics and standards to which it must confirm if it is to satisfy its intended use.

  Overly detailed product specifications should be avoided. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equal" description will be used.

  A "brand name or equal" description can be used only when an adequate specification or more detailed description cannot be provided, without performing an inspection and analysis, in time for the acquisition under consideration. If "brand name or equal" is used, the IFB must carefully identify the minimum needs, and clearly set forth those salient physical and functional characteristics of the brand name product in the solicitation.

  A control record will be maintained by the Executive Director/Deputy Director as IFB packets are distributed to prospective bidders. The control record profiles the following information:

  - Date and time IFB packets are distributed
  - Names and addresses of bidders receiving bid invitations and attending pre-bid conferences

  The control record has two primary purposes:

  - Serves as a mailing list for the issuance of addenda
  - Provides a record for verification in cases of vendor protests and other issues

Pre-Bid Conference

A pre-bid conference may be used as a means of briefing prospective bidders and explaining specifications and requirements to them as early as possible after the invitation has been issued and before the bids are opened. The pre-bid conference will not be used as a substitute for

amending a defective or ambiguous invitation. Attendance by potential bidders is not mandatory. Minutes of the conference and the list of attendees will be issued to all prospective bidders.

The pre-bid conference shall be chaired by the Executive Director/Deputy Director, and shall follow the format below:

a. Discuss basic requirements such as instructions to the bidders, funding, contract type, and specific points that should be addressed in each bid;

b) Discuss the participation requirements for disadvantaged business enterprises (DBE);

c) Discuss the scope of work and have the appropriate staff available to answer technical questions; and,

d) Conclude by announcing when and where the bids are due.

Amendments to Invitation for Bids

If after issuance of an IFB, but before the time set for opening of bids, it becomes necessary to make changes in quantities, specifications, opening dates, etc., or to correct or clarify a defective or ambiguous IFB, such changes shall be accomplished by the issuance, in writing, of an amendment to the IFB. Before issuing an amendment to an IFB, the period of time remaining until the time set for bid submittal and the need for extending this time must be considered. Where only a short time remains, consideration should be given to notifying prospective bidders of an extension of time by facsimile or telephone. Such notification should be confirmed in the amendment. The amendment shall be sent to each prospective bidder to whom the IFB was furnished and shall provide:

a. Amendment number and date;

b. Number, date and the title of the IFB concerned;

c. Clearly stated changes made in the IFB and the extension of the opening date, if applicable;

d. Instructions to bidders for acknowledging receipt of the amendment and information concerning the effect of failure to acknowledge and return the amendment.

Cancellation of IFB

Invitations for bids shall not be canceled unless cancellation is clearly in BCAG/BRT interest (i.e., where there is no longer a requirement for the material or service, or where amendments to the invitation would be of such magnitude that a new invitation is desirable). When an invitation is canceled, bids which have been received shall be returned unopened to the bidders and a notice of cancellation shall be sent to all prospective bidders to whom invitations for bids were issued.

The notice of cancellation shall identify the invitation for bids; briefly explain the reason the invitation is being canceled; and, where appropriate, assure prospective bidders that they will be given an opportunity to bid on any re-solicitation of bids or any further requirements for the type of material or service involved.

If the invitation for bids is canceled before the time for bid openings, this fact shall be recorded in the control file, with a statement of the number of entities invited to bid and the number of bids received.

Receipt of Bids

Bids shall be submitted so as to be received at the location designated in the invitation for bids not later than the exact time set for the receipt of bids. The only acceptable evidence to establish the time of receipt at BCAG/BRT offices is the time/date stamp of BCAG/BRT , which shall be placed on the bid wrapper immediately upon receipt. The BCAG/BRT staff person receiving the bid shall sign the exterior of the bid package to verify the date and time received and person receiving the bid. The timeliness of bids is the sole responsibility of the bidder.

Withdrawal of Bids

Any bidder may withdraw their bid, either personally or by written request, received by BCAG/BRT at any time prior to the time fixed for the receipt of the bids. Negligence on the part of Bidders in preparing their bid confers no right of withdrawal of their bid after such bid has been opened. No bid may be withdrawn for a period of 60 days following bid opening.

Bid Opening

Upon receiving the bids, it is the Executive Director/Deputy Director's responsibility to record their receipt and keep them unopened and secure, except as stated below.

Prior to bid opening, information concerning the identity and number of bids received shall be made available only to BCAG/BRT representatives who have a proper need for such information, as determined by the Executive Director/Deputy Director.

Unidentified bids may be opened solely for the purpose of identification and then only by the Executive Director/Deputy Director. If a sealed bid is opened by mistake or for purposes of identification, the Executive Director/Deputy Director shall immediately write on the envelope an explanation of the opening, the date and time opened, the invitation for bid number, and their signature. Bids opened by mistake or for identification purposes shall be resealed in the envelope and no information contained therein shall be disclosed prior to the public bid opening.

The Executive Director/Deputy Director shall decide when the time set for bid opening has arrived and shall so declare to those present.

All bids received prior to the time set for receipt shall then be publicly opened and when practical, read aloud by the Executive Director/Deputy Director to the persons present. The bids received shall be recorded. If it is impractical to read the entire bid, as where many items are involved, the total amount of the bid shall be read.

A second BCAG/BRT representative shall be present to witness the opening and reading of the bids and, along with the Executive Director/Deputy Director, shall sign the recording document to verify its accuracy. The original of each bid shall be carefully safeguarded, particularly until the abstract of bids has been made and its accuracy verified.

The original bid form shall not be allowed to pass out of the hands of the Executive Director/Deputy Director. The original bids may not be removed from the office except for official review and evaluation by BCAG/BRT legal counsel. A copy of each bid must be maintained in B-Line's procurement files in lieu of such originals for the interim period.

All bids will be open to public review after award has been made. All bids, including attachments and envelopes, shall be retained for the official files.

Recording of Bids

The invitation for bid number, bid opening date and time, general description of the procurement item, names of bidders, prices bid, and any other information required for bid evaluation, shall be entered on the official BCAG/BRT record and shall be available for public inspection. When the items are too numerous to warrant the recording of all bids completely, an entry shall be made of the invitation number, opening date and time, general description of the procurement items, and the total price bid where definite quantities are involved.

The official record shall be completed as soon as practical after bids have been opened and read aloud. The Executive Director/Deputy Director shall be responsible for maintaining files of these records and abstracts.

The file of the invitation for bids shall show the distribution that was made and the date thereof. The names and addresses of prospective bidders requesting the invitation for bids who were not included on the original solicitation list shall be added and made a part of the record.

Tabulation of Bids

Bids shall be evaluated on the basis of responsiveness and responsibility indicated in the Invitation for Bids. Award shall be made to the bidder submitting the lowest bid, unless BCAG/BRT determines that the bid is not responsive and/or the bidder is found to be not responsible.

Mistakes in Bids

General. Technicalities or minor irregularities in bids may be waived if the Executive Director/Deputy Director determines that it shall be in BCAG/BRT best interest. The Executive Director/Deputy Director may either give a bidder an opportunity to cure any deficiency resulting from a technicality or minor irregularity in its bid or waive the deficiency if it is to BCAG/BRT s advantage to do so.

Mathematical Errors. Errors in extension of unit prices or in mathematical calculations shall be corrected by BCAG/BRT prior to award. In all cases of errors in mathematical computation, the unit prices shall not be changed.

Mistakes Discovered Before Opening. A bidder can correct mistakes discovered before the time and date set for bid opening by withdrawing the original bid and submitting a new bid prior to the time and date set forth for bid opening.

Confirmation of Bid. If the Executive Director/Deputy Director knows or has reason to conclude that a mistake has been made, the bidder shall be requested to confirm the bid. Situations in

which confirmation will be requested include obvious, apparent errors on the face of the bid, or a bid unreasonably lower than the other bids submitted. If the bidder alleges mistake, the bid will be corrected or withdrawn if any of the following conditions are met:

If the mistake and the intended correction are clearly evident on the face of the bid document, the bid shall be corrected to the intended correct bid and must not be withdrawn. Examples of mistakes that may be clearly evident on the face of the bid document are typographical errors, errors in extending unit prices, transportation errors, and arithmetical errors.

A bidder will be permitted to withdraw a low bid if:

- A mistake is clearly evident on the face of the bid document but the intended correct bid is not similarly evident; or
- The bidder submits proof of evidential value, which clearly and convincingly demonstrates that a mistake was made.

Determination Required. When a bid is corrected or withdrawn, or correction or withdrawal is denied, the Executive Director/Deputy Director shall prepare a determination showing that the relief was granted or denied.

Minor Irregularities in Bids

a. A minor irregularity is one that is merely a matter of form and not of substance or pertains to some immaterial or inconsequential defect or variation in a bid from the exact requirement of the solicitation. If such a situation exists, the correction of the irregularity or waiver of the requirement may be made if it would not be prejudicial to other bidders.

b. A defect or variation in a bid is considered immaterial and inconsequential when its significance as to price, quantity, quality or delivery is trivial or would be eligible when contracted with the total cost or scope of the procurement.

c. The Executive Director/Deputy Director may either give the bidder an opportunity to cure any deficiency resulting from minor informality or irregularity in a bid, or waive the deficiency, whichever is to the advantage of B-Line.

Multiple or Alternate Bids

Unless multiple or alternate bids are requested in the solicitation, these bids will not be accepted. However, if a bidder clearly indicates a base bid, it shall be considered for award as though it were the only bid submitted by the bidder. These provisions shall be set forth in the solicitation and, if multiple or alternate bids are allowed, it shall specify their treatments.

Analysis of Limited Bid Response

If less than three bids have been received, the Executive Director/Deputy Director may examine the reasons for the small number of bids received. The purpose of this examination is to ascertain whether the small number of responses is attributable to an absence of any prerequisites of formal advertising. A price or cost analysis shall be performed to establish the reasonableness of the bid price before an award is made.

Determination of Responsiveness
Any bid which fails to conform to the essential requirements of the invitation for bids, such as specifications, delivery schedule, warranty, or the required bid documents, shall be rejected as non-responsive.

A bid shall be rejected when the bidder imposes conditions, which modify requirements of the invitation for bids. Bids may be rejected in cases, including but not limited to, in which the bidder:

Attempts to protect itself against future changes in conditions such as increased costs, if a total price to B-Line cannot be determined for bid evaluation.

Fails to state a price and in lieu thereof states that price shall be "price in effect at time of delivery."

States a price but qualifies such price as being subject to "price in effect at time of delivery".

Where not authorized by the invitation for bid, conditions or qualifies the bid by stipulating that the bid is to be considered only if, prior to date of award, bidder received (or does not receive) award under a separate procurement.

Limits rights of B-Line under any contract clause.

Fails to comply with all of the requirements of the IFB.

If a bid bond is required and a bidder fails to furnish it in accordance with the requirement of the invitation for bids.

The originals of all rejected bids, and any written findings with respect to such rejections, shall be preserved in the file relating to the procurement.

After submitting a bid, if a bidder transfers all of his assets or the part of his assets related to the bid during the period between the bid opening and the award, BCAG/BRT may accept or reject the bid at its sole discretion.

Responsible Bidder Evaluation
Before awarding the contract, BCAGF/BRT shall determine that a prospective contractor is responsible and that prices are reasonable. Bidders may be asked to provide any information required to determine the responsibility of the bidder. A responsible bidder is one who meets the standards set forth below:

- Has adequate financial resources, or the ability to obtain such resources as required during performance of the contract.

- Is able to comply with the required or proposed delivery or performance schedule, taking into consideration all existing business commitments.

- Has a satisfactory record of performance? Contractors who are, or have been seriously deficient in current or recent contract performance, when the number of contracts and the extent of deficiency of each are considered, may be considered to be non-responsible bidders. Documented past unsatisfactory performance will ordinarily be sufficient to justify a finding of non-responsibility.

- Is otherwise qualified and eligible to receive an award under applicable laws and regulations.

- Has the necessary organization, experience, operational controls, and technical skills, or the ability to obtain them?

- Has the necessary production, construction, and technical equipment and facilities, or the ability to obtain them?

Evaluation of the responsibility of prospective contractors may be made based upon the following sources:

- A list of debarred, suspended or ineligible firms or individuals from one of the following sources:
    - SAM.gov
    - California State Licensing Board (CSLB) (https://www.cslb.ca.gov/Consumer.aspx)
    - Department of Industrial Relations (DIR) (https://www.dir.ca.gov/dlse/debar.html)

- From the prospective contractor's bids and proposals, replies to questionnaires, financial data such as balance sheets, profits and loss statements, cash forecasts, and financial histories of the contractor and affiliated concerns; current and past production records, lists of tools, equipment, and facilities, written statements or commitments concerning financial assistance and subcontracting arrangements.

- Publications, including credit ratings, trade and financial journals, and business directories and registers may also be used.

- References such as suppliers, subcontractors, customers of the prospective contractor, banks and financial institutions, commercial credit agencies, other government agencies, purchasing and trade associations, and better business bureaus and chamber of commerce.

- Documented past performance on contracts with BCAG/BRT.

Rejection of All Bids

Any time prior to the bid opening date and time, BCAG/BRT may cancel or postpone the bid opening or cancel the IFB in its entirety.

Preservation of the integrity of the competitive bid system dictates that after bids have been opened, award must be made to that responsible bidder who submitted the lowest responsive bid, unless there is compelling reason to reject all bids and cancel the invitation.

Every effort shall be made to anticipate changes in a requirement prior to the date of bid opening and to notify all prospective bidders of any resulting modification or cancellation, thereby permitting bidders to change their bids and preventing unnecessary exposure of bid prices.

As a general rule, after opening, an invitation for bids should not be canceled and re-advertised due solely to increased requirements for the items being procured. Award should be made on the invitation for bids and the additional quantity should be treated as a new procurement.

Invitations for bids may be canceled after opening but prior to award, and all bids rejected, where it is consistent with Federal and State procurement regulations. A written determination must be included in the invitation for bid file stating that cancellation is in the best interest of B-Line for reasons such as the following:

a. Inadequate, ambiguous, or otherwise deficient specifications were cited in the invitation for bids.

b. The supplies or services are no longer required.

c. The invitation for bids did not provide for consideration of all factors of cost to B-Line.

d. Bids received indicate that the needs of BCAG/BRT can be satisfied by a less expensive item differing from that on which bids were received.

e. All otherwise acceptable bids received are at unreasonable prices.

f. The bids were not independently arrived at in open competition, were collusive, or were submitted in bad faith. Such situation must be substantiated and reported to BCAG/BRT legal counsel.

g. The bids received did not provide competition which was adequate to ensure reasonable prices. A price or cost analysis may be used to establish the reasonableness of prices.

When it is determined to reject all bids, BCAG/BRT shall notify each bidder that all bids have been rejected and stating the reason for such action.

Rejection of Individual Bids

Any bid that fails to conform to the essential requirements of the invitation for bids, such as specifications, delivery schedule, warranty, or the required bid documents, shall be rejected as non-responsive.

A bid shall be rejected where the bidder imposes conditions that modify requirements of the invitation for bids. For example, bids may be rejected in which the bidder:

- Attempts to protect itself against future changes in conditions such as increased costs, if a total price to BCAG/BRT cannot be determined for bid evaluation.

- Fails to state a price and in lieu thereof states that price shall be "price in effect at time of delivery."
- States a price but qualifies such price as being subject to "price in effect at time of delivery".

- Where not authorized by the invitation for bid, conditions or qualifies the bid by stipulating that the bid is to be considered only if, prior to date of award, bidder received (or does not receive) award under a separate procurement.

- Limits rights of B-Line under any contract clause.

- Fails to comply with all of the requirements of the IFB.

- Bids received from any person or firm debarred or ineligible shall be rejected if the period of debarment or ineligibility has not expired.

i. Debarment and Suspension. Debarment and suspension regulations and guidance include the following:

a. DOT Debarment and Suspension Regulations. Department of Transportation (DOT) regulations, “Non-procurement Suspension and Debarment,” 2 CFR Part 1200 apply to each third - party contract at any tier of $25,000 or more, to each third - party contract at any tier for a federally required audit (irrespective of the contract amount), and to each third - party contract at any tier that must be approved by an FTA official irrespective of the contract amount. See, 2 CFR Part 1200. Thus, the recipient must apply DOT’s debarment and suspension requirements to itself and each third - party contractor at every tier to the extent required by DOT’s regulations that incorporate the requirements of Office of Management and Budget (OMB), “Guidelines to Agencies on Government wide Debarment and Suspension (Non-procurement),” 2 CFR Part 180.

b. General Services Administration (GSA) Excluded Parties List System. Even though the recipient may collect a debarment and suspension certification from the prospective third - party contractor or include a clause in the third - party contract requiring disclosure, FTA strongly recommends that the recipient check the Excluded Parties List System (EPLS). Now a part of the System for Awards Management (SAM), the EPLS is an electronic, web- based system that identifies those parties excluded from receiving Federal contracts, certain subcontracts, and certain types of Federal financial and non- financial assistance and benefits. The EPLS keeps its user community aware of administrative and statutory exclusions across the entire government, and individuals barred from entering the United States. Go to www.sam.gov and the Extracts and Data Access area and click on the Public Data Access box to find the individual firm, individual or vessel you may seek.

c. State Debarment and Suspension Lists. A recipient may also treat any prospective contractor or subcontractor listed on a centralized State government debarment and suspension list as non-responsible and ineligible for contract award. For California those resources include the California State Licensing Board (CSLB) at:

https://www.cslb.ca.gov/Consumer.aspx and the Department of Industrial Relations at: https://www.dir.ca.gov/dlse/debar.html.

In utilizing these websites, the Project Manager, or responsible agency contact, will make a "responsible" or "non-responsible" determination. In cases where website searches turn up incidents or reporting that may support making a "non-responsible" determination, the Federal Acquisition Regulations (FAR) Part 9 – Contractor Qualifications may be utilized to further support that determination.

Low bids received from firms determined to be not responsible pursuant to Federal or State procurement regulations shall be rejected in accordance with the procedures set forth in this Chapter. A bid may be rejected if a bid guarantee is required and a bidder fails to furnish it in accordance with the requirement of the invitation for bids.
The originals of all rejected bids, and any written findings with respect to such rejections, shall be preserved in the file relating to the procurement.

After submitting a bid, if a bidder transfers all of its assets or that part of its assets related to the bid during the period between the bid opening and the award, the transferee may not take over the bid, thus BCAG/BRT may reject the bid.

Award of the Contract

Unless all bids are rejected, award shall be by written notice, within the time for acceptance specified in the bid or extension thereof, to the responsible and responsive bidder whose bid, conforming to all the material terms and conditions of the IFB, is the lowest in price.

When award is made to other than the lowest bidder, the lowest bidder will be notified in writing by BCG/BRT of any evidence reflecting upon the responsibility of the bidder and affording the bidder the opportunity to rebut such evidence and present evidence of qualifications to perform the contract.

Award shall be made by mail or personal delivery to the successful bidder of a notice of award and the proper contract documents. B-Line will finalize the execution of the contract and send a copy to the successful bidder. In addition, B-Line will notify all unsuccessful bidders of its intent to award a contract to the successful bidder at the same time it notifies the successful bidder if BCAG Board approval is not required, and at the same time as the publication of the BCAG/BRT Board agenda if Board approval is required.

Final Award

The contract will be drafted by the Executive Director/Deputy Director and reviewed by legal counsel for appropriate language and terms. The Executive Director/Deputy Director will ensure that the contract is executed at the approval level required in these procedures.

Four original signed copies of each contract will be executed by B-Line and the contractor. The Executive Director/Deputy Director will maintain one original of the contract and distribute additional copies to appropriate parties.

NOTE: The process described above may not be exactly the same as actual solicited competitive bidding. BCAG/BRT staff will make every effort to assure consistency with the intended purpose of

competitive bidding and conformance with Federal sand State funding regulation.

Project Completion
All original documentation related to each procurement such as the IFB, bid, control record, board report, background data, evaluation criteria and scores, meeting reports/notes, as well as the logs documenting bid opening dates and bid receipt dates will be submitted to the Executive Director/Deputy Director for storage when the file becomes inactive. For audit purposes, complete files will be maintained for a minimum of four years after the project is closed out and completed unless a different time period is mandated by a funding entity.

******NOTE*** The Invitation for Bid process and all stated criteria above are specifically included in each solicitation and are modified according to any DOT or FTA specific and current federal aid Third Party Contract and Capital Construction requirements in place at the time of solicitation.***

b. Request for Proposals (RFP)

The Request for Proposals (RFP) competitive procurement process is used when conditions are not appropriate for the use of an IFB. The latter is generally the case in the purchase of services such as lease agreements, maintenance and service contracts, rental contracts and professional service contracts. The RFP process is coordinated by the Executive Director, Deputy Director, Project Manager or designated authority.

The RFP process is a competitive negotiated procurement process that requires evaluation of offeror's proposed costs and understanding of the contract performance requirements in accordance with established evaluation criteria. The competitive negotiated procurement process does not require award to the lowest offeror. An RFP generally includes:

- Project, department and agency background
- Purpose of the engagement
- General firm qualifications desired
- Scope of work (see subsection B)
- Project schedule
- Proposal requirements
- Criteria for selection
- Payment terms

Issuance of RFP
The Project Manager shall initiate a purchase requisition, in accordance with the procedures set forth in Chapter III.B.18 at the start of the RFP process.

A notice of an RFP will be prepared by the Executive Director, and will be advertised as a public notice, and if the value of the procurement is over $50,000 for professional services, goods and other services, must be published in a newspaper of general circulation no less than two weeks prior to the date set for receipt of proposals. The notice must include the following minimum information:

- A general description of the services or goods to be purchased

- Where to request an RFP
- The location, day and time of the Pre-Proposal Conference (If one is held)
- The location, last day and hour proposals will be accepted (deadline)
- Whether Federal funds are being used for the procurement.

RFP Packet

The Executive Director will coordinate the release of the RFP packet. The RFP packet will include the following:

Instructions to Proposers - General instructions concerning the proposal format, pre-contractual expenses, contract conditions, pre-proposal conferences, and other information.

Attachments - Required forms to be completed by the proposer and submitted with the proposal.

Exhibits - These can be documents which display key facts, specifications, maps, report formats, and other important information to clearly define the goods or services needed in order for the proposers to properly respond to the RFP.

Scope of Work - Each RFP will contain a statement or scope of work prepared by the Project Manager which provides a clear and accurate description of the technical requirements for the materials, products, or services being produced. A statement or scope of work should only state the actual minimum needs of BCAGF/BRT and be developed in a manner designed to promote full and open competition. At a minimum, the statement or scope of work should address the following areas:

- A detailed description of the work to be performed outlining various tasks or phases to be performed, and defining the limits of the proposed project;
- A requirement for periodic reporting or progress on the project if the procurement involves consultant or professional services;
- A proposed delivery schedule; and,
- A proposed contract term.

Evaluation Criteria – Each RFP will contain the criteria and method that will be used to select the successful proposer. If the selection is to be made by lowest price, that will be stated in the solicitation documentation. If the selection process will be a “best value” determination, the solicitation will state so and the relative significance of each criteria will also be included in the solicitation document.

A control record will be maintained by the Executive Director as RFP packets are distributed to prospective bidders. The control record profiles the following information:

- Date and time RFP packets are distributed.
- Names and addresses of vendors receiving the RFP and attending the pre-proposal conference.

The control record has two primary purposes:

- Serves as a mailing list for the issuance of addenda.
- Provides a record for verification in cases of vendor protests and other issues.

Pre-Proposal Conference

A pre-proposal conference may be used as a means of briefing prospective proposers and explaining complicated specifications and requirements to them as early as possible after the RFP has been issued and before the proposals are received. The pre-proposal conference will not be used as a substitute for amending a defective or ambiguous invitation. Attendance by prospective proposers is not mandatory. Minutes of the conference and the list of attendees will be issued to all prospective proposers who attended the conference.

The pre-proposal conference shall be chaired by the Executive Director, and shall follow the guidelines below:

- Discuss basic requirements such as instructions to the proposers, funding, contract type, evaluation criteria, and specific points that should be addressed in each proposal;

- Discuss the participation requirements for disadvantaged business enterprises (DBE);

- Discuss the scope of work; and,

- Conclude by announcing when and where the proposals are due and by restating the requested proposal length and maximum pages in scope of work.

RFP Amendments

If after issuance of requests for proposals, but before the time set for receipt of proposals, it becomes necessary to make changes in quantities, specifications, delivery schedules, opening dates, etc. or to correct or clarify a defective or ambiguous RFP; such changes shall be accomplished by issuance, in writing, of an addendum to the RFP. Before issuing an addendum to an RFP, the period of time remaining until the time set for proposal submittal and the need for extending this time must be considered. Where only a short time remains, consideration should be given to notifying prospective proposers of an extension of time by facsimile or telephone. Such notification should be confirmed in the addendum. The addendum shall be sent to each prospective proposer to whom the RFP was furnished.

Any information given to a prospective proposer concerning an RFP shall be furnished promptly to all other prospective proposers as an addendum to the RFP. No award shall be made on the request unless such addendum has been issued in sufficient time to permit all prospective proposers to consider such information in submitting or modifying their proposals.

The RFP will indicate that BCAG/BRT is not bound by any oral representations, clarifications, or changes made in the written specification by BCAG/BRT employees, unless such clarification or change is provided to potential proposers in written addendum form from B-Line.

Each amendment issued to a request for proposals shall:

a. Be serially numbered and dated.

b. Include the number, date and a description of the original RFP concerned.

c. Clearly state the changes made in the RFP and the extension of the due date, if any.

d. Include instructions to bidders for acknowledging receipt of the addendum and information concerning the effect of failure to acknowledge or return the amendment.

Cancellation of RFP
B-Line has the right to cancel RFP's at any time.

Receipt of Proposals
Proposals shall be submitted so as to be received at the location designated in the RFP not later than the exact time set for the receipt of proposals. The only acceptable evidence to establish the time of receipt at BCAG/BRT's offices is the date stamp of BCAG/BRT which shall be placed on the proposal wrapper immediately upon receipt. The BCAG/BRT staff person receiving the proposal shall sign the exterior of the proposal package to verify the date and time received and person receiving the proposal. The timeliness of proposals is the sole responsibility of the proposer.

Withdrawal of Proposals
Any proposer may withdraw its proposal, either personally or by written request, received by BCAGF/BRT at any time prior to the time fixed for the receipt of the proposals. Negligence on the part of a proposer in preparing the proposal confers no right of withdrawal of the proposal after such proposal has been opened. No proposal may be withdrawn for a period of 60 days following the proposal deadline.

Format of Proposal
The response to each RFP must be made in accordance to the requirements set forth in the RFP, both for mandatory content and for sequence. Noncompliance on the inclusion of conditions, limitations or misrepresentations may be cause for rejection of a proposal.

Evaluation and Selection Process
Proposals submitted in response to the RFP will be evaluated by an Evaluation Committee established by BCAG/BRT in consultation with the Transit Administrative Oversight Committee, in accordance with the criteria set forth in the RFP. The Evaluation Committee shall score the proposals and make a recommendation to the Transit Administrative Oversight Committee and the Executive Director as to which PROPOSERS are within the competitive range. Executive Director will notify PROPOSERS in writing whether or not they are in the competitive range.

Interviews and Best and Final Offers (BAFOs)
Interviews and negotiations will be held by the Executive Director, or designee and/or his/her representatives with all PROPOSERS determined to be in the competitive range. The Executive Director, or designee and/or his/her representatives shall have the right to conduct a cost/price analysis, to review and audit all business records and related documents of any and all PROPOSERS

(including any affiliate or parent company, partner, or joint venture member) to determine the fairness and reasonableness of the proposal, to contact any and all client references, and to conduct site visits and investigations. An interview and presentation may be required. At the conclusion of this process, PROPOSERS in the competitive range will be asked to submit Best and Final Offers (BAFO), which will include final price proposals. After the submittal of BAFOs, the Evaluation Committee will score the BAFOs and prepare its recommendation for Agreement award.

Notwithstanding the above, BCAG/BRT reserves the right to make the award under the RFP based upon the initial proposals submitted, without establishment of a competitive range or discussions and submission of BAFOs.

BCAG/BRT Board Makes Final Determination

After the review and scoring of the BAFOs, the Executive Director, or designee shall submit the Evaluations Committee's recommendation for Agreement award to the BCAG/BRT Board of Directors. After review and consideration of this recommendation, the Board shall have the discretion to: 1) award the Agreement to the PROPOSER whose proposal is most advantageous to BCAG/BRT , price and other evaluation factors specified of the RFP considered, or 2) reject any and all proposals.

The BCAG/BRT Board is not bound by the recommendation of the Evaluation Committee.

Debriefing of Unsuccessful Proposers

Unsuccessful PROPOSERS shall be notified of BCAG/BRT s award of Agreement to the successful PROPOSER within five (5) working days of said decision.

When a contract is to be awarded on some basis other than price alone, unsuccessful proposers shall be debriefed upon their written request submitted to the Executive Director within a reasonable time. Debriefings shall be provided at the earliest time after the Executive Director makes a final determination recommending the award of the contract. The debriefing shall be conducted by Executive Director, or designee familiar with the rationale for the selection decision and contract award.

Debriefing shall:

Be limited to discussion of the unsuccessful proposer's proposal and must not include specific discussion of a competing proposer's proposal.

Be factual and consistent with the evaluation of the unsuccessful proposer's proposal; and provide information on areas in which the unsuccessful proposer's technical proposal was deemed weak or deficient.

Notice of Contract Award

Award shall be made by mail or personal delivery to the successful proposer of a notice of award and the proper contract documents. BCAG/BRT will finalize the execution of the contract and send a copy to the successful proposer. In addition, BCAG/NBRT will notify all unsuccessful proposers of its intent to award a contract to the successful proposer at the same time it notifies the successful proposer if BCAG/BRT Board approval is not required, and at the same time as the publication of the Board agenda if Board approval is required.

Final Contract Draft

The contract will be drafted by the Executive Director and reviewed by legal counsel for appropriate language and terms. The Executive Director (or designee) will ensure that the contract is executed at the approval level required in these procedures.

Three or more original signed copies of each contract will be executed by BCAG/BRT and the contractor. The Executive Director will maintain one original of the contract and distribute the others to appropriate parties including at least one original to the contractor.

Project Completion

All original documentation related to each procurement such as the RFP, successful proposal, BAFO, control record, agenda report, background data, evaluation criteria and scores, and meeting reports/notes will be submitted to the Executive Director for storage when the file becomes inactive. For audit purposes, complete files will be maintained for a minimum of four years after the project is closed out and completed unless a different time period is mandated by a funding entity.

Negotiated procurement records or files should provide at least the following pertinent information: justification for the use of negotiation in lieu of competitive bidding; contractor selection; justification for contract type; determination and findings; record of negotiations; and cost or price analysis.

******NOTE*** The RFP process and all stated criteria above are specifically included in each solicitation and are modified according to any DOT or FTA specific and current federal aid Third Party Contract and Capital Construction requirements in place at the time of solicitation.***

14. Architectural / Engineering Services Request for Proposal

The Architectural / Engineering Request for Proposal qualifications-based process will be used for the procurement of architectural and engineering ("A/E" hereafter) services and related services such as program management, construction management, feasibility studies, preliminary engineering, design, surveying, mapping, or related services.

Following this method, competitors' qualifications through an RFP type process, are evaluated and the most qualified competitor is selected subject to negotiation of fair and reasonable compensation. Under this method, BCAG/BRT may not consider price as an evaluation factor in determining the most qualified offeror. Negotiation is conducted with only the most qualified offeror. This method, where price cannot be used as an evaluation factor and negotiations are conducted with only the most qualified offeror, can only be used in procurement of the above services. This method of procurement cannot be used to obtain other types of services even through a firm that provides the above types of services are also potential sources to perform other services.

Issuance of an "A/E" RFP

The Project Manager shall initiate a purchase requisition, in accordance with the procedures as stated elsewhere in this Manual. regarding the RFP process.

A notice of an RFP will be prepared by the Executive Director, and will be advertised as a public notice, and if the value of the procurement is over $50,000, must be published in a newspaper of general circulation no less than three weeks prior to the date set for receipt of proposals. The notice must include the following minimum information:

- A general description of the services
- Where to request an RFP
- The location, day and time of the Pre-Proposal Conference (If one is held)
- The location, last day and hour proposals will be accepted (deadline)
- Whether Federal funds are being used for the procurement.

"A/E" RFP Packet

The Executive Director will coordinate the release of the RFP packet. The RFP packet will include the following:

- Instructions to Proposers - General instructions concerning the proposal format, pre-contractual expenses, contract conditions, pre-proposal conferences, and other information
- Attachments - Required forms to be completed by the proposer and submitted with the proposal
- Exhibits - These can be documents which display key facts, specifications, maps, report formats, and other important information to clearly define the services needed in order for the proposers to properly respond to the RFP
- Scope of Work - Each RFP will contain a statement or scope of work prepared by the Project Manager which provides a clear and accurate description of the technical requirements for the materials, products, or services being produced. A statement or scope of work should only state the actual minimum needs of B-Line and be developed in a manner designed to promote full and open competition. At a minimum, the statement or scope of work should address the following areas:

    - A detailed description of the work to be performed outlining various tasks or phases to be performed, and defining the limits of the proposed project;

    - A requirement for periodic reporting or progress on the project if the procurement involves consultant or professional services;

    - A proposed delivery schedule; and,

    - A proposed contract term.

A control record will be maintained by the Executive Director or an authorized designee as RFP packets are distributed to prospective bidders. The control record profiles the following information:

- Date and time RFP packets are distributed
- Names and addresses of vendors receiving the "A/E" RFP and attending the pre-proposal conference

The control record has two primary purposes:

- Serves as a mailing list for the issuance of addenda
- Provides a record for verification in cases of vendor protests and other issues

Pre-Proposal Conference
A pre-proposal conference may be used as a means of briefing prospective proposers and explaining complicated specifications and requirements to them as early as possible after the RFP has been issued and before the proposals are received. The pre-proposal conference will not be used as a substitute for amending a defective or ambiguous invitation. Attendance by prospective proposers is not mandatory. Minutes of the conference and the list of attendees will be issued to all prospective proposers who attended the conference.

The pre-proposal conference shall be chaired by the Executive Director, and shall follow the guidelines below:

a. Discuss basic requirements such as instructions to the proposers, funding, contract type, evaluation criteria, and specific points that should be addressed in each proposal;

b. Discuss the participation requirements for disadvantaged business enterprises (DBE);

c. Discuss the scope of work; and,

d. Conclude by announcing when and where the proposals are due and by restating the requested proposal length and maximum pages in scope of work.

Amendments of "A/E" Requests for Proposals
If after issuance of requests for proposals, but before the time set for receipt of proposals, it becomes necessary to make changes in quantities, specifications, delivery schedules, opening dates, etc. or to correct or clarify a defective or ambiguous RFP such changes shall be accomplished by issuance, in writing, of an addendum to the RFP. Before issuing an addendum to an RFP, the period of time remaining until the time set for proposal submittal and the need for extending this time must be considered. Where only a short time remains, consideration should be given to notifying prospective proposers of an extension of time by facsimile or telephone.
Such notification should be confirmed in the addendum. The addendum shall be sent to each prospective proposer to whom the RFP was furnished.

Any information given to a prospective proposer concerning an RFP shall be furnished promptly to all other prospective proposers as an addendum to the RFP. No award shall be made on the request unless such addendum has been issued in sufficient time to permit all prospective proposers to consider such information in submitting or modifying their proposals.

The RFP will indicate that B-Line is not bound by any oral representations, clarifications, or changes made in the written specification by BCAG/BRT employees, unless such clarification or change is provided to potential proposers in written addendum form from B-Line.

Each amendment issued to a request for proposals shall:

a. Be serially numbered and dated.
b. Include the number, date and a description of the original RFP concerned.
c. Clearly state the changes made in the RFP and the extension of the due date, if any.
d. Include instructions to bidders for acknowledging receipt of the addendum and information

concerning the effect of failure to acknowledge or return the amendment.

Cancellation of an "A/E" RFP
BCAG/BRT have the right to cancel RFP's at any time.

Receipt of Proposals
Proposals shall be submitted so as to be received at the location designated in the RFP not later than the exact time set for the receipt of proposals. The only acceptable evidence to establish the time of receipt at BCAG/BRT's offices is the date stamp of BCAG/BRT which shall be placed on the proposal wrapper immediately upon receipt. The BCAG/BRT staff person receiving the proposal shall sign the exterior of the proposal package to verify the date and time received and person receiving the proposal. The timeliness of proposals is the sole responsibility of the proposer.

Withdrawal of Proposals
Any proposer may withdraw their proposal, either personally or by written request, received by BCAG/BRT at any time prior to the time fixed for the receipt of the proposals. Negligence on the part of proposers in preparing their proposal confers no right of withdrawal of their proposal after such proposal has been opened. No proposal may be withdrawn for a period of 60 days following the proposal deadline.

Format of Proposal
The response to each RFP must be made in accordance to the requirements set forth in the RFP, both for mandatory content and for sequence. Noncompliance on the inclusion of conditions, limitations or misrepresentations may be cause for rejection of a proposal.

Evaluation and Contract Negotiation
The steps to be used for proposal evaluation and contract negotiation for A/E and related services solicitations are as follows:

a. An evaluation committee shall be established by the Project Manager to review eligible firms and all responses to an RFP.

b. Evaluation Committee evaluates the firms based on:

    i. Professional qualifications for performance of the required services;
    ii. Specialized experience and technical competence in the type work required;
    iii. Capacity to accomplish the work in the required time; and,
    iv. Past performance in terms of cost control, quality of work and compliance with performance schedules.

c. Evaluation team holds discussions with the most highly qualified firms ("short list").

d. Evaluation team prepares a selection report for the Executive Director recommending, in order of preference, those firms that are considered to be the most highly qualified to perform the required services. The report should include a description of the discussions and evaluations by the team to allow the Executive Director to review the basis upon which the recommendations were made. The Executive Director shall not add firms to the selection

report. If recommended firms are deemed to be unqualified or the report is inadequate, the Executive Director shall document the reasons therefore and return the report to the evaluation team for appropriate revision.

e. The final selection shall be made by the Executive Director from a list of the most highly qualified firms prepared by the evaluation team. The Executive Director will list those firms in order of preference for negotiating a contract.

f. After the final selection has taken place, BCAGF/BRT may release information identifying only the A/E firm with which an attempt will be made to negotiate a contract. If negotiations are terminated without awarding a contract to the highest rated firm, BCAG/BRT may release information that negotiations will take place with the next highest rated firm.

g. The final selection authorizes negotiations to begin with the most qualified firm, which will be requested to submit a proposal that includes fees and cost estimates.

h. The negotiation of compensation to the contractor should represent a fair and equitable payment for the services performed. At this stage, negotiations must take place not only on the amount of compensation, but also the method of payment.

i. In determining the amount of compensation and the method of payment, consideration shall be given to:

    i. Scope and complexity of designs, surveys and other work and the skills necessary for these services.

    ii. Quality and quantity of data provided to the A/E by BCAG/BRT.

    iii. Location of, and conditions under which, the services will be performed.

    iv. Date services to begin and time allowed for performance.

j. Costs should be negotiated taking into consideration:

    i. Direct Labor
    ii. Overhead
    iii. General and administrative expenses
    iv. Materials
    v. Other direct costs
    vi. Profit, which is further influenced by:
    vii. Degree of A/E's risk
    viii. Level of effort
    ix. Level of talent or expertise A/E must furnish
    x. Amount of subcontracting
    xi. Amount of top level A/E management involved
    xii. Subcontracts

xiii. Contractor's investment

k. When the contract is negotiated and signed, the negotiations are documented and placed in the file.

l. The contract shall be monitored to ensure that expenditures and payments therefore are commensurate with performance and that both have met all the terms of the contract.

m. The contractor is responsible for the professional quality, technical accuracy and coordination of all services under the contract. The contractor may be liable to B-Line for costs resulting from errors or deficiencies in design furnished under the terms of the A/E contract.

******NOTE*** The A/E process and all stated criteria above are specifically included in each solicitation and are modified according to any DOT or FTA specific and current federal aid Third Party Contract and Capital Construction requirements in place at the time of solicitation.***

15. Sole Source Procurements

A sole source procurement is a purchase or acquisition of goods or professional services accomplished through solicitation or acceptance of a proposal or contract amendment from only one source; or, if after solicitation of a number of sources competition is determined inadequate. A sole source purchase must be documented as to the reasons why only one supplier is acceptable. This documentation is normally furnished by the originating department and verified by the Executive Director, who is responsible for making the final determination on sole source procurements.

The following areas must be considered in sole source determinations:

A contract amendment or change order that is not within the scope of the original contract is considered a sole source procurement. Sole source procurement may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids, or competitive proposals and at least one of the following circumstances applies:

a. The item is available only from a single source;

b. The public exigency or emergency (i.e., a threat to public health, welfare, safety, property or other substantial or eminent loss to BCAG/BRT, or a situation requiring immediate action by BCAG/BRT, as determined by BCAG/BRT for the requirement will not permit a delay resulting from competitive solicitation).

c. The items of work or services needed or required are time sensitive to accomplish a strategy or plan in advance of a identified BCAG/BRT budgetary impact.

d. FTA authorizes noncompetitive negotiations;

e. After solicitation of a number of sources, competition is determined inadequate; or

f. The item is an associated capital maintenance item as defined in 49 U.S.C. § 5307(a)(1) that is

procured directly from the original manufacturer or supplier of the item to be replaced. The grantee must first certify in writing to FTA: (I) that such manufacturer or supplier is the only source for such item; and (ii) that the price of such item is not higher that the price for such item by like customers.

g. The materials and items needed are available through only one or a very limited associated vendors/suppliers.

h. The Executive Director believes the sole source purchase or acquisition will serve the purpose and is in the best interest of BCAG/BRT.

A cost analysis, i.e., verifying the proposed cost data, the projection of the data, and the evaluation of the specific elements of costs and profit, may or may not be required. A price/cost analysis will be performed by receiving proposed cost data from vendors, Transit Agencies of equal size or functions, and City/County/State agencies. *(Please see Appendix D and G for documentation and forms required for use in procedures utilizing sole source acquisitions)*

The Executive Director, or authorized designee, shall conduct negotiations, as appropriate, as to price, delivery, and terms.

16. Emergency Procurements

Emergency procurements (defined as purchases immediately necessary for the preservation of life or property, or to prevent an immediate termination of a critical BCAG/BRT function or activity) will be handled immediately and expedited as required. The Executive Director has the authority to approve the purchase of all goods and services in emergency conditions. If the Executive Director is unavailable to authorize an emergency procurement, the Deputy Director may provide the necessary authorization. Upon completion of the emergency procurement, the Executive Director will document the actions taken and execute a proper requisition.

17. Amendments and Change Orders

a. An amendment is any change to a contract, task order, or work order for any professional services including all architectural and engineering services that alters the terms and conditions of the original document. Any change in the scope of a contract that increases the cost of the contract must follow the Sole Source Procurement procedures. Amendments are formal changes that must be approved at the same signature authority level as the original document.

b. BCAG/BRT shall have the right, based on a clause contained in each contract for construction or the delivery of goods and services other than those listed in subsection (A) above, to issue a change order or amendment to correct errors, omissions, or discrepancies; to cover acceptable overruns; to expand or reduce the scope of the contract; or to direct other changes in contract execution to meet unforeseen field, regulatory or market conditions. All change orders must be approved in advance in accordance with the value of the change order or the calculated value of the time extension. In addition, BCAG/BRT shall have the unilateral right, based on a clause contained in each contract, to issue an immediate change order and negotiate cost and price for time and materials after the issuance of the change order.

c. All amendments and change orders shall be submitted to the Executive Director complete with explanations and back-up information and, when applicable, a detailed breakdown of charges for

review and/or recommendation of approval.

d. Verification of Amendments and Change Orders: The Executive Director will verify all amendments and change orders as to the:

i. Appropriateness of the modification of the contract and whether it is unreasonable to do a separate bid for the item under consideration.

ii. The methods of calculating the amount of the amendment or change order are in conformance with the terms of the contract.

iii. Change orders for each individual contract shall be handled by the Executive Director.

18. Blanket Purchase Orders

The Executive Director will issue a blanket purchase order for goods or services based, if possible, on competitive quotations to procure items on an as-needed basis.

19. Purchase Requisition/Order Procedures

Step 1: Purchase Requisition

All purchases above the small purchase threshold begin with a purchase requisition. The Project Manager shall prepare and submit the Purchase Requisition to the Executive Director completing all sections including unit cost and total cost.

A Purchase Requisition must be completed before a Purchase Order can be prepared. The Project Manager is responsible for its completeness and accuracy. The Project Manager is responsible for ensuring the availability of funds in the proper account. To ensure a need exists for the item to be requisitioned, before purchase is made, a complete and accurate description of the item must be provided, along with all other information necessary to make the procurement decision.

A properly completed Purchase Requisition includes: a description of the item to be procured, the quantity needed, unit cost, total cost, and all vendor quotations, where appropriate. The description section shall provide detailed specifications regarding the item to be purchased and, when applicable, when and where the service will be performed or when and where the items will be delivered.

The account name and number must be provided by the project manager to determine which account will be expensed when the requisition is invoiced. If the procurement is to be expensed against more than one account code, all accounts should be listed.

NOTE: The Purchase Requisition process and receiving of goods, may be initiated by the Facilities Manager under the authority of the Executive Director or Deputy Director.

Step 2: Approval of Purchase Order

a. Purchase Order numbers may only be assigned by the Accountant or designee and only following receipt of a completed Purchase Requisition. The Accountant or designee will review the Purchase Requisition and all documentation to ensure its completeness and accuracy.

b. Following the above review, the Accountant or designee will assign the next consecutive Purchase Order number.

c. Purchases are handled by orally notifying the vendor of the approved Purchase Order number. Written confirmation will be sent to the vendor, if appropriate. The method of purchase shall be specified on the Purchase Requisition.

d. Vendors shall be told to include their Purchase Order number on all correspondence, including packages, invoices, credit memos, etc.

Step 3: Receipt of Goods/Services and Authorization to Pay

a. Receipt of Goods: The Project Manager is responsible for receipt of the physical merchandise ordered. Upon receipt, the packing slip shall be compared to the goods received. If correct, the Project Manager or designee will forward the resulting invoice to the Accountant to authorize payment.

b. Receipt of Services: The Project Manager is responsible for the receipt of services. Upon completion, the Project Manager shall match and approve all invoices that confirm the proper completion of services performed and forward the approved invoice to the Accountant to authorize payment.

c. The Project Manager or designee must approve all payments.

20. Vendor Protest Procedures

a. **Purpose:** The purpose of these procedures is to set forth the procedures to be utilized by BCAG/BRT in considering and determining all bid protests or objections regarding solicitations, proposed award of a contract, or award of a contract whether before or after award.

b. **General:** In order for a bid protest to be considered by BCAG/BRT , it must be submitted by an interested party (as defined below in accordance with the procedures set forth herein. A protest which is submitted by a party which is not an interested party or which is not in accordance with the procedures shall not be considered by BCAG/BRT , and will be returned to the submitting party without any further action by B-Line.

c. Definitions For purposes of these Bid Protest Procedures:

i. The term "Bid" includes any bid or offer submitted by a bidder in response to an Invitation for Bid (IFB), and a proposal submitted by an offeror in response to a Request for Proposals (RFP).

ii. The term "contract" means that document to be entered into between BCAG/BRT and the successful bidder and offeror.

iii. The term "days" refers to normal business days of B-Line staff offices.

iv. The term "interested party" means any person: (a) who is an actual or prospective proposer, bidder, or offeror in the procurement involved; and (b) whose direct economic interest would

be affected by the award of the contract or by failure to award a contract.

v. The term "solicitation" means an Invitation for Bids (IFB), Request for Proposals (RFP), or other form of document used to procure equipment or services.

d. **Grounds for Protest** - Any interested party may file a bid protest with BCAG/BRT on the grounds that:

i. BCAG/BRT has failed to comply with applicable Federal or State Law;

ii. BCAG/BRT has failed to comply with its procurement procedures;

iii. BCAG/BRT has failed to comply with the terms of the solicitation in question, including the failure to adhere to the evaluation criteria set forth in the solicitation, if applicable;

iv. BCAG/BRT has issued restrictive or discriminatory specifications; or,

v. Award is made to other than the lowest responsive and responsible bidder on formally advertised (IFB) procurements.

e. Contents of Protest

i. A bid protest must be filed in writing and must include:

- The name and address of the protestor.
- The name and number of the procurement solicitation.
- A detailed statement of the grounds for the protest, including all relevant facts and a citation to the Federal or State law, the provision of BCAG/BRT procurement procedures, or specific term of the solicitation alleged to have been violated.
- Any relevant supporting documentation the protesting party desires BCAG/BRT to consider in making its decision.
- The desired relief, action, or ruling sought by the protestor.

ii. Protests must be filed with:

Executive Director or Deputy Director Butte
County Association of Governments 326
Huss Drive, Suite 150
Chico, CA 95928

iii. All protests must be received at the B-Line address listed above during normal office hours of 8:00 a.m. to 5:00 p.m., Pacific Standard or Daylight Time.

iv. If any of the information required by this section is omitted or incomplete, BCAG/BRT will notify the protestor, in writing, within one day of the receipt of the protest, and the protestor will be given one day to provide the omitted or incomplete information in order for the protest to be further considered. Note that this provision only applies in the case of a failure to state any grounds for a protest and does not apply to stating inadequate grounds for a protest or the

failure to submit documentation.

f. **Timing Requirements and Categories of Protests: BCAG/BRT** will consider the following categories of bid protests within the time period set forth in each category:

i. Any bid protest alleging improprieties in a solicitation process or in solicitation documents must be filed no later than five days prior to the scheduled bid opening or deadline for submittal of proposals, as appropriate, in order to be considered by BCAG/BRT. Any protest based on such grounds not filed within this period will not be considered by BCAG/BRT . This category of protests includes, but is not limited to, allegation of restrictive or exclusionary specifications or conditions.

ii. Any bid protests regarding the evaluation of bids or proposals by BCAG/BRT, or improprieties involving the approval or award or proposed approval or award of a contract must be filed with BCAG/BRT no later than 72 hours after the protestor's receipt of BCAG/BRT 's written notice of its decision or intended decision to award a contract. Any protest filed after such date which raises issues regarding the bid proposal evaluation, or the contract approval or award will not be considered by BCAG/BRT .

g. Review of Protest by B-Line

i. BCAG/BRT will notify the protestor within 3 days of timely receipt of a bid protest that the protest is being considered.

ii. In the notification, BCAG/BRT will inform the protestor of any additional information required for evaluation of the protest by BCAG/BRT and set a time deadline for submittal of such information. If BCAG/BRT requests additional information, and it is not submitted by the stated deadline, B BCAG/BRT - may either review the protest on the information before it or decline to take further action on the protest.

iii. In its sole discretion, BCAG/BRT may give notice of any bid protest to other bidders or proposers for the procurement involved in the protest, as appropriate, and permit such bidders or offerors to submit comments to BCAG/BRT relative to the merits of the bid protest. BCAG/BRT will set a time deadline for the submittal of such comments, which will be no less than 5 days after BCAG/BRT provides notification of the protest.

iv. In its sole discretion, BCAG/BRT may schedule an informal conference on the merits of a bid protest. All interested parties will be invited to participate in the conference. Any information provided at the conference will only be considered by BCAG/BRT in deciding the bid protest if it is submitted to BCAG/BRT in writing within 3 days after the conference.

h. Effects of Protest on Procurement Actions

i. Upon receipt of a timely protest regarding either the solicitation process of the solicitation documents in the case of sealed bids, BCAG/BRT will postpone the opening of bids until resolution of the protest. The filing of the protest will not, however, change the date on which bids are due, unless B-Line determines, and so notifies all bidders, that such a date change is necessary and

appropriate to carry out the goals of the procurement and assure fair treatment for all bidders.

ii. Upon receipt of a timely protest regarding evaluation of bids or proposals, or the approval or award of a contract, BCAG/BRT will suspend contract approval or other pending action, or issue a stop work order if appropriate, until the resolution of the protest. In this event, the successful bidder or proposer may not recover costs as a change order.

iii. Notwithstanding the pendency of a bid protest, BCAG/BRT reserves the right to proceed with any appropriate step or action in the procurement process or in the implementation of the contract in the following cases:

- Where the item to be procured is urgently required;
- Where BCAG/BRT determines, in writing, that the protest is vexatious or frivolous;
- Where delivery or performance will be unduly delayed, or other undue harm to BCAG/BRT will occur, by failure to make the award promptly; or,
- Where BCAG/BRT determines that proceeding with the procurement is otherwise in the public interest.

i. **Summary Dismissal of Protests:** BCAG/BRT reserves the right to summarily dismiss all or any portion of a bid protest that raises legal or factual arguments or allegations that have been considered and adjudicated by BCAG/BRT in a previous bid protest by any interested party in the same solicitation or procurement action.

j. Protest Decisions

i. After review of a bid protest, the Executive Director shall make a recommendation to the Executive Director of the appropriate disposition of such protest.

ii. The recommendation shall be made on the basis of the information provided by the protestor and other parties, the results of any conferences, and BCAG/BRT 's own investigation and analysis.

iii. If the protest is upheld, BCAG/BRT will take appropriate action to correct the procurement process and protect the rights of the protestor, including re-solicitation, revised evaluation of bids or proposals or BCAG/BRT 's determination, or termination of the contract.

iv. If the protest is denied, BCAG/BRT will lift any suspension imposed and proceed with the appropriate state of the procurement process or the contract.

k. **Judicial Appeals:** A protest adversely affected by a bid protest decision may appeal such decision to an appropriate court of the State of California.

l. Federal Transit Administration Appeals (Only if Federal funds are used in the procurement)

A protestor adversely affected by a bid protest decision of the Executive Director may submit a protest to the Federal Transit Administration (FTA) in accordance with the provisions of FTA Circular 4220.1E, currently in effect as of the date of BCAG/BRT 's decision on the bid protest.

Under the provision of the FTA Circular, FTA will only review protests regarding:

i. The alleged failure of BCAG/BRT to have written protest procedures or the alleged failure to have followed such protest procedures; or

ii. The alleged failure to review a complaint or protest; or

iii. Alleged violations of Federal law or regulation.

In accordance with the FTA Circular, such protest must be filed no later than 5 days after the protestor knew or should have known of BCAG/BRT's alleged failure listed above.

Under the following conditions, BCAG/BRT may proceed with the procurement in spite of a pending protest to the FTA:

i. The items to be procured are urgently required;
ii. Delivery or performance will be unduly delayed by failure to make the award promptly; or,
iii. Failure to make prompt award will otherwise cause undue harm to BCAG/BRT or the Federal Government.

CHAPTER IV

Contract Administration

A. Contract Administration Guidelines

1. A Notice to Proceed will be issued on all projects that must start work before a contract is executed.

2. Letter agreements are sufficient for projects with a specific scope of work and are $50,000 or less.

3. A full contract agreement will be done for all other projects.

4. All agreements will be assigned a contract number, which must be referred to on the Purchase Order and the contractor's invoices.

5. Once the Notice to Proceed or agreement is signed, the Executive Director, Deputy Director, Project Manager, or authorized designee, will originate the Purchase Order.

6. The Executive Director, Deputy Director, Project Manager or authorized designee will approve all invoices before payment is issued.

7. The Executive Director, Deputy Director or Chair of the Board of Directors, will sign all contracts unless unavailable in which case contracts will be signed in accordance with the adopted Procurement Policies and Procedures.

8. A contract amendment is necessary for a change in Scope of work, term or compensation and must be completed before additional work or payment is authorized.

9. A copy of the procurement document must be included with the contract files, including an explanation of the process used in procuring the goods or services.

10. The Executive Director, Deputy Director, Project Manager or authorized designee will issue a letter of completion to the contractor.

B. Federal Procurement Requirements

Since B-Line receives FTA operating and capital assistance, federal procurement requirements apply to all federally funded operating and capital procurements undertaken in support of B-Line's mass transportation operations. Some of these requirements are unique and pertain only to federally funded procurements. Listed below are those specific contract terms and/or regulatory or administrative requirements that only apply when federal funds are being utilized for the procurement. Note that the requirements of the Americans with Disabilities Act, the equal opportunity provisions of the Civil Rights Act of 1964, as amended, and the FTA's Drug and Alcohol Testing Requirements (49 CFR Parts 655) apply to all procurements (if applicable) even if Federal funds are not utilized.

Prior to issuing Third Party Solicitations for procurement, the CORTAP Manual, FTA Circular 4220.1F, FTA Master Agreement, and all affiliated matrices and checklists in Appendix C will be reviewed once per Fiscal Year to determine if any instructions have been revised or added that require inclusion for Third Party Contracts. The current known guidelines include, but are not limited to, the following:

1. State or local geographic preferences, except those expressly mandated or encouraged by Federal statute, are prohibited.

2. For procurements over $150,000, the Buy America requirements set forth in 49 CFR part 661 apply.

3. Any procurement involving equipment, materials, or commodities suitable for transport by ocean vessel shall contain the clauses required by 49 CFR Part 381: Cargo preference - U.S. Flag Vessels.

4. In the procurement of rolling stock, the requirements of 49 CFR Part 663 concerning Pre-Award and post-Delivery Audits apply.

5. In the procurement of buses, the requirements of 49 CFR Part 665 concerning Bus Testing apply.

6. For public works/construction projects, the requirements of 49 CFR Part 41(specifically Part 41.117: Seismic safety) apply.

7. For public works/construction projects or activities exceeding $2,000, the requirements of the Davis-Bacon Act (40 U.S.C. 276a - 276a (7)) and implementing Department of Labor regulations apply. For public works/construction projects in excess of $2,000, the provision of the Copeland Anti-Kickback Act (40 U.S.C. 276c) and implementing Department of Labor regulations apply.

8. For public works/construction projects, the requirements of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-222) and implementing Department of Labor regulations apply.

9. For any contract of over $100,000, the third - party contractor will be required to complete and submit certification forms, and, if appropriate, lobbying disclosure forms concerning compliance with 31 U.S.C. 1352.

10. Each third - party contractor must acknowledge that if it makes a false, fictitious, or fraudulent claim, statement, submission, or certification, the federal government reserves the right to impose penalties under the Program Fraud Civil Remedies Act of 1986.

11. Each third - party contractor is required to acknowledge the mandatory standards and policies related to every efficiency that are contained in the State Energy Conservation Plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6321, et. seq.).

12. For public works/construction projects, each third - party contractor must agree to comply with any federal environmental and resource conservation requirements that apply to the construction activities under the terms of the Contract. The contractor is required to report any violation of standards, orders or regulation issued under the Clean Air Act (42 U.S.C. 7401 et. seq.) or the Federal Water Pollution Control Act (33 U.S.C. 1251 et. seq.) resulting from any activity of the contractor in connection with the performance of the contract to FTA and to the appropriate U.S.

EPA regional office. The contractor is responsible for the disposal of hazardous materials, in accordance with applicable federal, state and local law and guidelines.

13. Each third - party contractor for contracts over $25,000 must certify that they will not enter into contracts for over $25,000 with suspended or debarred contractors (Executive Order 12549; 49 CFR part 29)

14. Each third - party contractor must comply with Civil Rights requirements concerning nondiscrimination and equal employment opportunity (29 U.S.C. 623; 42 U.S.C. 2000, 6102, 12112; 12132; 49 U.S.C. 5332; 29 C.F.R. Part 1630; 41 C.F.R. Parts 60 et. Seq.).

15. Each third - party contractor must comply with appropriate Patent and Rights in Data requirements (37 C.F.R. Part 401 and 49 C.F.R. Part 18).

16. Each third - party contractor must comply with the Department of Transportation Disadvantaged Business Enterprise (DBE) regulations (49 C.F.R. Part 26).

17. Each Third - Party Contract must include the third - party contract federal clauses as identified and applied in Appendices A, B and C of the *"BLine – Butte Regional Transit Policies and Procedures Manual"*

18. Fly America. Each third - party contractor must comply with 49 U.S.C. 40118 in accordance with the General Service Administration's regulations at 41 CFR Part 301-10.

C. Bonding Requirements

Purpose: To ensure uniform and equitable application of bonding requirements in compliance with state and federal regulations, protect the interests of BCAG/BRT.

Responsibility: It shall be the responsibility of the Executive Director or Deputy Director to ensure that these guidelines are followed and applied impartially.

Types of Bonds:

Bid Guarantee: This shall consist of a firm commitment, such as a bid bond, certified or cashier's check, or other negotiable instrument accompanying a bid as assurance the bidder will, upon acceptance of the bid by BCAG/BRT , execute such contractual documents as may be required within the time specified. B-Line will require bid bonds for all public works/construction projects, for any equipment or services contract of a critical nature to the operations of BCAG/BRT, or for any equipment contract in which the equipment if specifically manufactured for BCAG/BRT . Public works/construction projects require a bid bond of ten (10) percent of the amount bid. Equipment purchases and service projects requiring a bid bond will have a bond requirement of up to ten (10) percent of the amount bid. BCAG/BRT will require proposal bonds for any equipment or services contract of a critical nature to the operations of BCAG/BRT . Service projects requiring a proposal bond will have a bond requirement of up to ten (10) percent of the amount bid. Failure of bidders to comply with these requirements will result in a determination by the Executive Director, or authorized designee, that the bid is nonresponsive.

Performance: This is a bond executed in connection with a contract to secure fulfillment of all the Contractor's obligations under such contract. Performance bonds shall be written by a corporate surety registered in the State of California. BCAG/BRT will require performance bonds for all public works/construction projects, for any equipment or services contract of a critical nature to the operations of BCAG/BRT, or for any equipment contract in which the equipment if specifically manufactured for BCAG/BRT . Public works/construction projects require a performance bond of 100 percent of the amount of the contract. Equipment purchases requiring a bond will have a bond requirement of up to twenty (20) percent of the amount of the contract. Service projects requiring a bond will have a bond requirement of up to 100 percent of the amount of the contract.

Payment: This is a bond executed in connection with a Contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract. Payment bonds shall be written by a corporate surety registered in the State of California. BCAG/BRT will require a bond for public works/construction contracts over $25,000. The required payment bond will be 100 percent of the amount of the contract.

Procedures

Bid guarantees and performance bonds are required by the State of California for all public works/construction projects in excess of $6,500. Payment bonds are required by the State of California for all public works/construction projects in excess of $25,000.

Bid guarantees and/or performance bonds are not required unless the procurement involves equipment or services of a critical nature to the operations of the agency and/or is specifically manufactured for the agency thereby making procurement form another source difficult or time consuming. Payment bonds are not required under these circumstances.

Bonding levels are:

Type of Project	Type of Bond		
	Bid	**Performance**	**Payment**
Public Works/Construction (as applicable)	10%	100%	100%
Materials and Equipment (as applicable)	up to 10%	up to 20%	up to 100%
Services (except for personal or professional)	up to 10%	up to 100%	up to 100%

Forfeiting of Bonds: All contracts that contain bonding requirements shall contain a clause allowing termination on default of the contractor and providing that in such cases the surety company shall bear the responsibility for the completion of the contract, or if no surety company has provided a performance bond, BCAG/BRT will claim the alternate to the performance and payment bond and use such funds for the completion of the contract.

D. Insurance Requirements

Insurance requirements vary depending on the project type. They may include provisions for personal injury, environmental liability and other areas. The insurance requirements for each project are established by BCAG/BRT .

In assessing risk management, BCAG/BRT will consider the following project information:

- Scope of work
- Contract amount
- Whether the project requires the contractor to operate on BCAG/BRT property
- The ultimate use of the good or service provided by the contractor
- Previous experience associated with similar or related projects

Once the insurance requirements are defined, they must be included in the procurement document.

Prior to issuing the final contract, BCAG/BRT Legal Counsel or designee shall approve the insurance certificate. A copy of the insurance certificate is to be kept in the project file.

The Executive Director shall not allow any contract to continue without proper insurance in effect after notification of the lapse of requisite insurance.

E. Liquidated Damages

The Executive Director and the Project Manager will determine whether the use of a liquidated damages provision is appropriate for each specific procurement. The amount of liquidated damages must be reasonable, shall be set at a specific rate for each day of overrun in contract time for a public works/construction contract or for delivery of goods, or for each instance of an incident giving rise to imposition of liquidated damages in a service contract, and the rate must be specified in the contract.

A liquidated damages clause may be used if it is determined that:

The time of delivery of goods or services to BCAG/BRT is critical, and BCAG/BRT can expect to suffer damage if the delivery is delinquent.

The extent or amount of such damage would be difficult or impossible to determine.

F. Indemnification

All contracts shall provide that the contractor shall indemnify and save harmless BCAG/BRT , its officers, agents and employees from any injuries or damages received by any person during any operations connected with the Contract, by use of any improper materials, or by any act or omission of the Contractor or his subcontractor, agents, servants or employees. The contract provision reads as follows:

“The Contractor (or Consultant) agrees to protect, defend, indemnify and hold BCAG/BRT, its members, BCAG/BRT Board members, management consulting staff, officers, and agents, free and harmless from and against any and all losses, penalties, damages, settlements, costs, charges, professional fees or other expenses or liabilities of every kind and character arising out of or relating to any and all claims, liens, demands, obligations, actions, proceedings or causes of action of every kind and character including Worker's Compensation suits, liability or expenses (hereinafter collectively "claims") in

connection with or arising directly or indirectly out of the Contract or the performance hereof by the Consultant (or Contractor) or any sub-consultant (or sub-contractor). Without limiting the generality of the foregoing, any and all such claims, relating to personal injury, infringement of any patent, trademark, copyright (or application for any thereof) or of any other tangible or intangible personal or property right, or actual or alleged violation of any other tangible or intangible personal or property right, or actual or alleged violation of any applicable statute, ordinance, administrative order, rule or regulation, or decree of any court, shall be included in the indemnity hereunder. The Consultant (or Contractor) further agrees to investigate, handle, respond to, provide defense for, and defend any such claims, at its sole expense and agrees to bear all other costs and expenses related thereto, whether or not it is alleged or determined that the Consultant (or Contractor) was negligent, and without regard to whether such claim is groundless, false, or fraudulent.''

G. Termination

1. Termination for Convenience

All contracts shall contain a provision allowing for the termination of the contract for convenience by BCAG/BRT and prescribe methods in which the contractor may calculate cost of work already performed, and termination settlement costs. All contracts supported by federal grants that exceed $10,000 are to include provisions that allow BCAG/BRT to terminate the contract, and that stipulate the manner by which termination will be made and the basis for settlement. The contract provisions read as follows:

a. The performance of work (or professional services) under the Contract may be terminated by BCAG/BRT in accordance with this Section in whole, or from time to time in part, whenever BCAG/BRT determines that such termination is in the best interest of BCAG/BRT. Any such termination shall be affected by delivery to the Consultant (or Contractor) of a notice of termination specifying the extent to which performance of professional services under the Contract is terminated and the date upon which such termination becomes effective.

b. Upon receipt of a notice of termination, and except as otherwise directed by BCAG/BRT , the Consultant (or Contractor) shall (1) stop work under the Contract on the date and to the extent specified in the notice of termination; (2) place no further orders or subcontracts for materials, services, or facilities, except as may be necessary for completion of such portion of the work (or professional services) to be provided under the Contract as are not terminated; (3) terminate all orders and subcontracts to the extent that they relate to the performance of professional services terminated by the notice of termination; (4) assign to BCAG/BRT in the manner, at the times, and to the extent directed by BCAG/BRT , all of the right, title and interest of the Consultant (or Contractor) under the orders and subcontracts so terminated; (5) settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of BCAG/BRT , to the extent that BCAG/BRT may require, which approval or ratification shall be final for all the purposes of this Section; (6) transfer title to BCAG/BRT and deliver in the manner, at the times, and to the extent, if any, directed by BCAG/BRT , supplies, equipment, and other material produced as a part of, or acquired in connection with the performance of, work (or professional services) terminated, and any information and other property which, if the Contract had been completed, would have been required to be furnished to B-Line; (7) complete any such part of the work as shall not have been terminated by the notice of termination; and (8) take such action as may be necessary, or as B-Line may direct, for the protection and preservation of the property related to the Contract

which is in the possession of the Consultant (or Contractor) and in which BCAG/BRT has or may acquire an interest. Payments by BCAG/BRT to the Consultant (or Contractor) shall be made by the date of termination but not thereafter. Except as otherwise provided, settlement of claims by the Consultant (or Contractor) under this termination section shall be in accordance with the provisions set forth in 48 C.F.R. Part 49, as amended from time to time."

2. Termination for Default

All contracts shall contain a provision allowing for the termination of the contract for default by BCAG/BRT . All contracts supported by federal grants that exceed $10,000 are to include provisions that allow BCAG/BRT to terminate the contract, and that stipulate the manner by which termination will be made and the basis for settlement. The contract provisions read as follows:

If the CONTRACTOR does not deliver supplies in accordance with the contract delivery schedule, or, if the contract is for services, the CONTRACTOR fails to perform in the manner called for in the contract, or if the CONTRACTOR fails to comply with any other provisions of the contract, BCAG/BRT may terminate this contract for default. Termination shall be affected by serving a notice of termination on the CONTRACTOR setting forth the manner in which the CONTRACTOR is in default. The CONTRACTOR will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract. If it is later determined by BCAG/BRT that the CONTRACTOR had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or beyond the control of the CONTRACTOR, BCAG/BRT, after setting up a new delivery of performance schedule, may allow the CONTRACTOR to continue work, or treat the termination as a termination for convenience.

H. Dispute Resolution

All contracts shall contain provisions providing that any dispute between the contractor and BCAG/BRT relating to the implementation or administration of the contract in question be resolved in accordance with a dispute resolution process set out in the contract. The contract provisions read as follows:

A. Any dispute between the Consultant (or Contractor) and BCAG/BRT relating to the implementation or administration of the Contract shall be resolved in accordance with this Section.

B. The parties shall first attempt to resolve the dispute informally in meetings or communications between the Consultant (or Contractor) and the Project Manager (for each individual contract). If the dispute remains unresolved 15 days after it first arises, the Consultant (or Contractor) may request that the Project Manager issue a recommended decision on the matter in dispute. The Project Manager shall issue the recommended decision in writing and provide a copy to the Consultant.

C. The recommended decision of the Project Manager shall become final unless, within 15 days of receipt of such recommended decision, the Consultant (or Contractor) submits a written request for review to the Executive Director. In connection with any such review, the Consultant (or Contractor) and the Project Manager shall be afforded an opportunity to be heard and to offer evidence on the issues presented. If the dispute remains unresolved after review by the Executive Director, either party may seek judicial resolution of the dispute in an appropriate Court of the State of California.

D. Pending final resolution of a dispute under this Section, the Consultant (or Contractor) shall proceed diligently with performance in accordance with the Contract and the Project Manager's recommended decision."

I. Final Contract Approval and Distribution

1. Contract Approval

   Certain approval levels may be required as outlined in Chapter II. If BCAG/BRT Board of Directors approval is required, the Project Manager should draft the Agenda Report in such a manner as to authorize the Executive Director or designee to negotiate and execute the final contract terms.

   All contracts requiring BCAG/BRT Board approval must be approved by the Executive Director. The process for final contract approval is as follows:

a. Board authorization (if required) is received.
b. Draft contract is developed and approved by the Executive Director or designee, legal counsel and the contractor.
c. Final contract is signed by all parties and distributed.

2. Contract Distribution

The Executive Director has the responsibility for final contract distribution and issuance of the Notice-to- Proceed. Copies of the final contract are sent to the following:

a. Project Manager
b. Contractor
c. Project Control File

J. Written Record of Procurement History (Project Control File)

The project control file shall be maintained by the Executive Director during the procurement process, throughout the term of the contract and for three years following completion of all work.

The control file consists of the following sections:

1. Vendor list
2. Rationale for type of procurement used
3. Rationale for selection of contract type
4. Independent Cost Estimate
5. List of all vendors responding to the procurement
6. All documentation relating to the selection process, including, but not limited to: evaluation score sheets, bids, rationale for selection and/or rejection of respondents, the basis for the contract price and the source selection plan
7. Notice to proceed
8. Final contract
9. City Council report, if required

10. Purchase Requisition
11. All correspondence
12. Proof of insurance
13. Bond documents
14. Notice of Solicitation
15. Legal advertisement
16. Original procurement document and all addenda
17. Original responses to the procurement
18. DBE information
19. Returned mail

K. Vendor File

The Vendor File consists of a listing of businesses, organizations, and enterprises that could provide quality goods and services specific to BCAG/BRT. A vendor may be declared "not responsible" and removed from the Vendor File if the vendor:

- Repeatedly misses deadlines in deliveries of goods and services
- Provides unsatisfactory goods and services

Before declaring a vendor to be "not responsible," the Executive Director, Deputy Director, or authorized designee, will make every effort to give the vendor an opportunity to correct the problem. The following steps must be followed:

1. Notify vendor of possible disqualification from vendor list
2. If no response to the first notice is received, issue a second notice
3. If no response to the second notice is received, the third notice will be issued informing the vendor that it has been deemed "not responsible" and removed from the Vendor file effective ten days from the date of the third notice.

A file will be kept of all activity and communications with the vendor. All actions must be fully documented and the file will be retained for a period no less than two years. In order for a vendor to be reinstated into BCAG/BRT 's Vendor File, the vendor must file a request with the Executive Director in writing declaring to be a "responsible vendor." The reinstatement letter must include the following:

- Reason vendor failed to respond to procurement requests
- Reason vendor provided slow or unsatisfactory deliveries
- Steps vendor has taken to eliminate slow or unsatisfactory deliveries
- Statement why vendor should be reconsidered as a responsible vendor
- Promise to maintain their responsible vendor status

CHAPTER V

Types of Contracts

Except as provided in this section, any type of contract that will promote the best interest of BCAG/BRT may be used.

A. Fixed Price Contracts

1. Firm-Fixed Price

   A firm-fixed price contract establishes a price that is not subject to any adjustment on the basis of the contractor's cost experience in performing the contract.

2. Fixed Price Contracts With Economic Price Adjustment

   Fixed-price contracts may provide for price adjustments (upward or downward) when specified contingencies occur. These contracts are typically used when there is serious doubt about the stability of selected costs or prices over an extended period of contract performance.

B. Cost Reimbursement Contracts

A cost-reimbursement contract is one in which the contractor is paid its reasonable, allocable and allowable costs of performance regardless of whether the work is completed.

1. Executive Director shall use a cost-reimbursement contract only when uncertainties involved in contract performance do not permit costs to be estimated with sufficient accuracy to use any type of fixed-price contract.
2. The Executive Director may use cost-reimbursement contracts only when the following circumstances apply:

   The contractor's accounting system is adequate for determining costs applicable to the contract;

   Appropriate B-Line oversight during performance will provide reasonable assurance that efficient methods and effective cost controls are used; and

   The Executive Director determines, based upon discussions with the Project Manager that the lack of precision of the statement of work or the difficulty of accurately estimating the costs make the use of a fixed-price contract impractical.

3. Each cost-reimbursement contract shall contain the following:

   A clause, approved by the Executive Director indicating that only those costs determined to be reasonable and allocable will be reimbursable; and

   A clause, approved by Executive Director, establishing a stated limitation of cost.

4. Cost plus percentage of cost contracts are prohibited.

C. Indefinite Delivery Contracts and Task Orders Contracts

1. The Executive Director, Deputy Director, or authorized designee, may use an Indefinite Delivery type of contract (either a requirement contract or an indefinite quantity contract/Task order) when the exact quantities of supplies or services are not known at the time of contract award. The contract may also specify maximum or minimum quantities that BCAG/BRT may order under each individual order and the maximum that BCAG/BRT may order during a specified period of time.
2. There are several types of indefinite delivery contracts:
    a. Definite-quantity contracts
    b. Requirements contracts, and
    c. Indefinite quantity (IQ) contracts (commodities)
    d. Task order contracts (services).
3. Indefinite Delivery type contracts are used when the Executive Director, Deputy Director, Project Manager or authorized designee, anticipates recurring requirements but cannot predetermine the precise quantities for supplies or services. The Executive Director, Deputy Director, Project Manager or authorized designee, shall include the following in each contract and solicitation for a requirements contract:
    a. A realistic estimate of the total quantity or dollar amount that will be ordered, based on the most current information available; and
    b. A clause, approved by the Executive Director, Deputy Director, Project Manager or authorized designee,, stating that the estimate is not a representation to a bidder, offeror, or contractor that the estimated quantity will actually be required or ordered, or that conditions affecting the requirements will be stable or normal.
4. If feasible, a requirement type contract shall state the maximum limit of the contractor's obligation to deliver and BCAG/BRT 's obligation to order.
5. The Executive Director, Deputy Director, Project Manager or authorized designee, or his or her authorized designee executing orders under a requirement type contract shall obligate funds when each individual order is issued and may order from a requirement type contract within the limits of the user department's budget authority for the items or services covered by the contract.
6. The Executive Director, Deputy Director, Project Manager or authorized designee, may use an Indefinite Quantity type of contract when the Executive Director, Deputy Director, Project Manager or authorized designee, cannot predetermine, above a specified minimum, the precise quantity of supplies or services that will be required during the contract period, and the Executive Director, Deputy Director, Project Manager or authorized designee, determines that it is inadvisable to commit B-Line for more than a minimum quantity.
7. An Indefinite Quantity type contract shall require BCAG/BRT to order and the contractor to furnish at least the stated minimum quantity of supplies. The contractor shall also be required to furnish if and as ordered, any additional quantities, not to exceed a stated maximum. The Executive Director, Deputy Director, Project Manager or authorized designee, shall ensure that the contract obligates the amount of budget authority needed to cover BCAG/BRT 's minimum

required order under the contract.

8. The Executive Director, Deputy Director, Project Manager or authorized designee, shall include in the schedule of each requirements and Indefinite Quantity type of contract the names of BCAG employees authorized to issue orders under the contract. When determined appropriate by the Executive Director, Deputy Director, Project Manager or authorized designee, authorization for placing facsimile orders may be included in the contract; provided that BCAG/BRT shall establish procedures for obligating funds and confirming all such orders.
9. Each Indefinite Delivery contract issued must include a fixed dollar ceiling that represents the target "not to exceed" cost authorizations for the work specified.
10. In cases where multiple suppliers are awarded contracts, the file shall include Task Order/Delivery Order source selection and price justification to document negotiations, price reasonableness, and/or source selection decision.
11. Each order placed under an Indefinite Delivery/Task Order contract shall contain required minimum information needed for a contract.

D. Time and Materials Contracts

A time and material contract can be used only:

1. After a determination by the Executive Director that no other type of contract is suitable; and

2. If the contract specifies a ceiling price that the contractor shall not exceed except at its own risk.

E. Labor Hour Contracts

Labor hour contracts are a variation of the time and materials contract, differing only in that materials are not supplied by the contractor. You should use this type of contract only when no other would be suitable, and you need to document your determination if you choose to use this type of contract.

F. Revenue Contracts

Revenue contracts are those third party contracts whose primary purpose is to either generate revenues in connection with a transit related activity, or to create business opportunities utilizing an FTA funded asset. FTA requires these contracts to be awarded utilizing competitive selection procedures and principles. In accordance with FTA Circular 4220.1E section 7(n), the extent of and type of competition required is within the discretionary judgment of the Executive Director.

G. Contract Term Limits

Contract term limits are specified below:

1. A contract for rolling stock or replacement parts funded with FTA funds may be entered into for any time period not to exceed five (5) years.

2. Contracts for supplies and services may be entered into for any time period considering that the time period is based on sound business practices and is consistent with the "full and open competition" principle expressed in FTA Circular 4220.1E.

3. Revenue contracts may have a period of performance beyond five (5) years if B-Line believes it is in B-Line best interest, including options.

4. Options are permitted provided the extensions, if any, are included in the solicitation.

Appendix List

Appendix A	FTA Master Agreement (rev. November 2025)
Appendix B	FTA Third Party Federal Clause Checklist
Appendix C	FTA Third Party Federal Clauses
Appendix D	Independent Cost Estimate (ICE) and Price Analysis
Appendix E	Procurement Documentation Checklist
Appendix F	BCAG/BRT Certification Forms
Appendix G	Sole Source Forms and Justification