



<b>Department</b> <b>PURCHASING</b>	<b>Subject</b> <b>MICRO PURCHASES</b>
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**I. PURPOSE**

To establish Micro Purchase processing procedures (for procurements \$3,000 or less) for the acquisition of materials, supplies, and services to ensure that:

- A. All procurements are best suited to the needs of Pace and are obtained at the lowest possible price or for the best overall value in accordance with Pace’s Ordinance SBD 92-102, Regulations Governing Public Bidding as amended.
- B. All procurement funded with federal monies and/or grants from the federal government, State of Illinois, or Regional Transportation Authority (RTA) shall be handled in accordance with Federal Transit Administration (FTA) Circular 4220.1F or most recent version.
- C. All non-federally funded procurements will also be processed in accordance with FTA Circular 4220.1F or most recent version.

For procurements not funded in accordance with item B above and in the event that legitimate business reasons or market conditions necessitate the waiving of any requirements established by FTA Circular 4220.1F, those reasons and the specific requirements proposed for waiver must be identified and documented by the requisitioner or other responsible party. Such waivers may be granted on an exceptions basis for a specific procurement subject to the approval and acceptance by the Department Manager, Purchasing or his/her designee. Under no circumstances shall categorical exclusions to compliance with the FTA Circular be allowed.

- D. Vendors are treated fairly in the Micro Purchase or Informal Procurement process.
- E. In accordance with Pace's administrative policy, appropriate approvals are obtained before contracts are awarded or change orders are issued.

**II. SCOPE**

This procedure applies to purchases of all materials, supplies and services, which are valued at \$3,000 or less, except:

- A. Purchases made following Petty Cash procedures, Refer to FI-01 (\$50 or less)
- B. Purchases made following Purchasing Card procedures, Refer to FI-01 (less than \$1,000)
- C. Purchases made following Check Request procedures, Refer to FI-06 (less than \$1,000)



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- D. Purchases handled by Division/Materials Management Buyers for non-grant funded items and services
- E. Costs associated with employee compensation and benefits

**III. GENERAL PROCUREMENT GUIDELINES**

**A. Procurement Method**

Consistent with Pace's Ordinance SBD 92-102 and FTA Circular 4220.1F if applicable, Micro Purchase Procedures shall be followed for amounts \$3,000 or less. Purchases in this range shall follow simple informal methods of procurement. Procurements at or below this threshold may be made informally without obtaining competitive quotations.

Micro Purchases, however, shall allow for an equitable distribution among qualified suppliers in the local area. Splitting of procurements to avoid competition is a violation of Pace's procurement policy.

**B. Pace's Purchasing and Materials Management Staff will need to determine and document that the price is fair and reasonable.**

A Fair and Reasonable Price Determination Form, attached as Appendix I, shall be used for all procurements, including Micro Purchases. Micro Purchases require minimum documentation detailing fair and reasonable pricing and how the determination was derived. Specific references to recent purchase orders, copies of cited price lists, or catalogs serve as adequate documentation to determine the price is fair and reasonable.

**C. Construction and Public Works Contracts**

Exceptions to these general provisions are for construction contracts and public works contracts. The Davis-Bacon Act (federal prevailing wage determination, as determined by the Department of Labor) applies to construction contracts above \$2,000. Further information on Davis-Bacon regulations can be found at [www.dol.gov/dol/compliance](http://www.dol.gov/dol/compliance).

In accordance with the State of Illinois' Prevailing Wage Act, ALL public works contracts, regardless of dollar amount, must adhere to state prevailing wage determinations. Therefore, Micro Purchase procurements must adhere to this Act. State prevailing wage determinations may be accessed at <http://www.state.il.us/agency/idol/rates/rates.HTM>.

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- D. Since there are applicable FTA clauses even at the Micro Purchase level, headquarters and division buyers must reference FTA Circular 4220.1F and Appendix IV of this PC-02-A for applicability of clauses for their specific procurement. Additionally, they must utilize the templates created for Micro Purchases. These are located on the shared Purchasing drive.

See Appendix II for applicable FTA clauses required by procurement type.

#### **IV. GENERAL PROCUREMENT PROCEDURES AND PROHIBITIONS**

##### **A. Geographic Restrictions**

Pace will not use geographic preferences in the award of contracts except in the case of procurement of Architectural and Engineering (A/E) services, where knowledge of local conditions and building codes is a relevant factor in the quality of the A/E services.

##### **B. Prequalification of Vendors**

Pace does not maintain a list of "prequalified" firms that are used in acquiring goods and services. It is Pace's policy to ensure maximum full and open competition for each procurement action.

##### **C. Purchasing and Materials Management Files**

The Purchasing and Materials Management Departments shall maintain a Procurement History file which provides an audit trail from the initiation of a purchasing requirement through contract end or termination. Micro Purchase files require minimal documentation, but must include:

- a requisition
- a list of sources solicited
- specifications/scope of work or item description
- an original solicitation and addenda (if applicable)
- quote(s) submitted
- RFQ results
- a completed Fair and Reasonable Price Determination Form
- an original contract or purchase order
- any change orders (if applicable)
- certificates of insurance (if required by Risk Management)

Headquarters buyers shall utilize a Contract Folder Checklist Form for each contract file. See Appendix III.



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**V. RESPONSIBILITIES**

Purchasing staff and Materials Management buyer planners, supervisor, or Department Manager shall be the only Pace representatives who shall have contact with potential bidders and vendors after a Purchase Requisition has been initiated unless otherwise authorized by Purchasing staff or Materials Management buyer planners, supervisor, or Department Manager.

The Requesting Department initiates the procurement process by completing a **new** requisition in Oracle. The Requesting Department is responsible for:

- clearly indicating the requisition is for a new or renewal contract and what items or services are required by entering this information in the Item Description field on the requisition
- attaching all required documentation

See *PC-03, Requisitioning/Requesting Department Responsibilities* for further details regarding the responsibilities of the requisitioning department.

On receipt of fully completed and approved Purchase Requisitions, Purchasing personnel at headquarters and the operating Divisions will:

- A. Review requisitions for completeness; requisitions will be rejected and returned to the end user through Oracle if they are not complete and ready for processing by Purchasing personnel. A complete requisition will at a minimum include:
- a description of the item or service to be procured

See *PC-03, Requisitioning/Requesting Department Responsibilities* for further details on requirements.

- B. Ensure that all procurements are conducted in accordance with funding agency requirements
- C. Determine appropriate method of solicitation; for Micro Purchases, an informal RFQ process is adequate.
- D. Determine appropriate contract type, i.e., standard purchase order, blanket purchase agreement or other contract, and prepare the appropriate document utilizing requisitioner input when appropriate.



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- E. Submit electronic copy of requisition and scope of work, with blank insurance requirements form, to the Department Manager, Risk Management for proper insurance requirements for the solicitation. Upon receipt of the completed insurance requirements form from the Department Manager, Risk Management, print out and include in the solicitation package.
- F. Although this is typically minimal for Micro Purchases, on occasion it may be necessary to review, with the requesting department, any requests for changes which are made by bidders on the specifications or scope of work. For procurements handled by headquarters and division buyers, all changes to general terms and conditions require review and approval from the Department Manager, Purchasing or the Department Manager, Materials Management\* and Pace's General Counsel as applicable. When changes being requested affect insurance and insurance related requirements, these changes must be reviewed and approved by the Department Manager, Risk Management.  
  
\*Note: For those solicitations handled by the headquarters buyers, the Department Manager, Purchasing shall review and approve all changes to general terms and conditions; for those solicitations handled by the division buyers, the Department Manager, Materials Management shall review and approve all changes to general terms and conditions.
- F. Submit to the requesting department, all requests for clarification of technical information received from bidders or proposers prior to RFQ closing date. When information has been returned from the requestor, Purchasing will respond to the vendors as required.
- G. Record quotes received in response to RFQs on a bid tabulation form.
- H. Ensure that all required documentation is obtained from the Contractor to whom the contract is awarded, including a Certificate of Insurance and required certifications, including the Non Collusion Affidavit and the Certification regarding Debarment and Suspension
- I. Make a Fair and Reasonable Price Determination for all procurements. Minimal documentation is required for Micro Purchases. See Appendix I for *Fair and Reasonable Price Determination Form* and Section III above for details on documentation required for Micro Purchases.



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- J. Forward electronic copy of change order requisition and scope (if applicable) to the Department Manager, Risk Management to assess if there will be a required change in insurance requirements.
- K. Return requisition for re-approval by proper budget authorities if bid price exceeds the ICE/original requisition amount by more than 20%.
- L. Prepare Purchase Order for the lowest responsive and responsible quote obtained (if determined to be within budget constraints).
- M. Approve and Print the Purchase Order through Oracle.
- N. If Grant funded, Purchasing and Materials Management staff will submit the Purchase Order along with the Contract Folder to Capital Financing and Infrastructure staff for appropriate manual authorization.
- O. Sign the Purchase Order and mail or fax a copy to the vendor as required.
- P. Maintain contract files to show documentation of contract activities, including quoted prices, information regarding rationale for method of procurement, selection of contract type, vendor selection or rejection, and the basis for the contract price.

**VI. CHANGE ORDERS**

- A. A Change Order modifies the terms and conditions of an existing purchase order contract (i.e. standard purchase order or blanket purchase agreement). A Change Order must be issued to the Contractor in writing and signed by the Department Manager of Purchasing or the Department Manager of Materials Management. Change Orders to Micro Purchases shall be limited and shall not cause the total contract value to exceed \$3,000. Since specific FTA clauses and other requirements are based on dollar amount, Purchasing and Materials Management staff shall be prohibited from allowing change orders that convert a Micro Purchase limit contract into a Small Purchase or formal procurement limit contract.
- B. The Requesting Department initiates the Change Order process by completing a new requisition in Oracle.
- C. The Requesting Department is responsible for clearly indicating the requisition is a Change Order by entering this information in the Item Description field on the



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requisition. The Requesting Department is responsible for preparing any written explanation as required to explain and/or justify the requested change(s).

See *PC-03, Requisitioning/Requesting Department Responsibilities* for further details regarding the responsibilities of the requisitioning department; see *PC-12, Change Orders* for more detailed guidance on the change order process.

- D. Budget Authorities are responsible for verification of charge accounts and the availability of funds, if applicable.

The Department Manager of Capital Financing and Infrastructure is the final Budget Authority on all capially funded change order requisitions.

- E. The Purchasing and Materials Management Departments are responsible for reviewing their respective requested change(s) for compliance with Federal Transit Authority (FTA) Procurement Rules and internal Pace policies and if appropriate, modifying the previously approved purchase order contract in accordance with the change(s) requested.

The Purchasing and Materials Management Departments are responsible for negotiating their respective Change Order with the Contractor.

- F. The Purchasing Department or Materials Management Department shall approve their respective Change Order in the Oracle System.
- G. If Grant funded, Purchasing or Materials Management staff will submit their Change Order along with the Contract File to Capital Financing and Infrastructure staff for appropriate manual authorization.
- H. Department Manager, Purchasing or Department Manager, Materials Management (or their designees) will sign their Change Order and mail it to the vendor/fax it to the vendor as required.



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**VII. VENDOR PERFORMANCE**

Vendor performance and contract administration documentation will be minimal for Micro Purchases due to the small dollar amount and the general nature of these types of procurements. Day to day contract administration is the requesting or end user department's responsibility. It is key that the requisitioning department manage and document vendor performance issues and alert Purchasing staff immediately if there are issues with vendor performance or contract compliance.

Purchasing and Materials Management buyers are required to monitor and maintain on record basic information regarding the performance of vendors.

**VIII. RECEIPT OF GOODS**

Whenever goods are delivered or services rendered, requesting/using department personnel at headquarters and the operating divisions respectively, are required to:

- verify that items or services are delivered in a satisfactory manner
- verify that items delivered or services rendered are invoiced correctly
- enter a receiving for standard purchase orders or a release and a receiving for blanket purchase agreements using Oracle.

Executive Director

Date

## Fair and Reasonable Price Determination

The FTA Circular 4220.1F requires a fair and reasonable price determination in connection with every procurement action, including change orders. This form shall be used for all Micro Purchases.

I hereby determine the price to be fair and reasonable based on at least one of the following:

- Competitively Awarded Joint Procurement/Piggybacking Opportunity
- Found reasonable on recent purchase
- Obtained from current price list
- Obtained from current catalog
- Commercial market sales price from advertisements
- Similar item in related industry
- Personal knowledge of item procured
- Regulatory rate (utility)
- Two (2) or more bids/proposals
- Other \_\_\_\_\_

**The following documentation is attached in support of this determination:**

- Specific references to recent purchase orders or copies of cited price lists, catalogs, etc.
- Other

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Title: \_\_\_\_\_

Req No.: \_\_\_\_\_ Contract No: \_\_\_\_\_

FTA or Other Required Clauses	Dollar Threshold	Included in template?	
		Goods	Services
Davis Bacon and Copeland Anti Kickback Acts	> \$2,000.00	✓	✓
Termination*	> \$10,000.00	✓	✓
Government-wide Debarment and Suspension*	>\$25,000	✓	✓
State of Illinois Ineligible Contractors and Subcontractors**	N/A	✓	✓
IL State FOIA**	N/A	✓	✓
IL State Non-Collusion**	N/A	✓	✓
Audit and Inspection of Records**	N/A	✓	✓

\* Pace policy on these clauses are more stringent than the FTA and are included in all contracts regardless of value.

\*\*State of IL and/or the RTA/IDOT also require additional clauses.

**CONTRACT FOLDER CHECKLIST**

Req No.:	Contract No.:	Begin Date:	End Date:
<p><b>Flap 1—User Request</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Original Requisition</li> <li><input type="checkbox"/> Change Order Requisition(s)</li> <li><input type="checkbox"/> Sole Source Justification</li> <li><input type="checkbox"/> Independent Cost Estimate (ICE)</li> <li><input type="checkbox"/> Method of Procurement Matrix</li> <li><input type="checkbox"/> Procurement Log/Documentation of Contract Type Selected</li> </ul>	<p><b>Flap 2—Solicitation Documents</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Blank Bid Package</li> <li><input type="checkbox"/> Addenda</li> <li><input type="checkbox"/> Pre-advertising Concurrence</li> <li><input type="checkbox"/> Proof of Advertising</li> <li><input type="checkbox"/> Bidder's List</li> <li><input type="checkbox"/> Approvals</li> <li><input type="checkbox"/> Website Advertising</li> </ul>	<p><b>Flap 3—Bid Results/Evaluations and Scoring</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Bid Tabulation Sheet</li> <li><input type="checkbox"/> Evaluation Data</li> <li><input type="checkbox"/> Unsuccessful Bids/Proposals</li> <li><input type="checkbox"/> Responsiveness Determinations</li> <li><input type="checkbox"/> Responsibility Determination</li> <li><input type="checkbox"/> Fair and Reasonable Price Determination Form/Memo</li> <li><input type="checkbox"/> Cost and/or Price Analysis</li> </ul>	<p><b>Flap 4—Board and Contract Recommendations</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Board Ordinance and Recommendation</li> <li><input type="checkbox"/> Board Report Documents</li> <li><input type="checkbox"/> Budget Statement</li> </ul>
<p><b>Flap 5—Contract Compliance, Vendor Communications</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Vendor and Internal Contract Correspondence</li> <li><input type="checkbox"/> Original Bonds</li> <li><input type="checkbox"/> Contract Compliance Documents</li> <li><input type="checkbox"/> Original Insurance Certificate</li> <li><input type="checkbox"/> Negotiations Documentation</li> </ul>	<p><b>Flap 6—Contract Documents</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Purchase Order/Change Order(s)</li> <li><input type="checkbox"/> Exceptions/Amendments</li> <li><input type="checkbox"/> Original Signed Contract with all Exhibits</li> </ul>		

Comments:



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**I. PURPOSE**

To establish Small Purchase processing procedures (for procurements of \$3,001.00 to \$10,000.00) for the acquisition of materials, supplies, and services to ensure that:

- A. All procurements are best suited to the needs of Pace and are obtained at the lowest possible price in accordance with Pace’s Ordinance SBD 92-102, Regulations Governing Public Bidding.
- B. All procurement funded with federal monies and/or grants from the federal government, State of Illinois, or Regional Transportation Authority (RTA) shall be handled in accordance with Federal Transit Administration (FTA) Circular 4220.1F or most recent version.
- C. All non-federally funded procurements will also be processed in accordance with FTA Circular 4220.1F or most recent version.

For procurements not funded in accordance with item B above and in the event that legitimate business reasons or market conditions necessitate the waiving of any requirements established by FTA Circular 4220.1F, those reasons and the specific requirements proposed for waiver must be identified and documented by the requisitioner or other responsible party. Such waivers may be granted on an exceptions basis for a specific procurement subject to the approval and acceptance by the Department Manager, Purchasing or his/her designee. Under no circumstances shall categorical exclusions to compliance with the FTA Circular be allowed.

- D. We attempt to maximize competition.
- E. Vendors are treated fairly in the Small Purchase or Informal Procurement process.
- F. In accordance with Pace's administrative policy, appropriate approvals are obtained before contracts are awarded or change orders are issued.

**II. SCOPE**

This procedure applies to purchases of all materials, supplies and services, which are valued at above \$3,001 to \$10,000, except:

- A. Costs associated with employee compensation and benefits
- B. Purchases handled by Materials Management/Division Buyers for non-grant funded items or services



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**II. GENERAL PROCUREMENT GUIDELINES**

Consistent with Pace’s Ordinance SBD 92-102 and FTA Circular 4220.1F if applicable, Small Purchase Procedures shall be followed for amounts greater than \$3,000 and up to \$10,000 in aggregate value.

**A. Procurement Method**

Buyers will attempt to maximize competition for Purchases in this range. Typically, award is made to the lowest responsive and responsible bidder at this dollar threshold. Simple informal methods of procurement, called Requests for Quotes (RFQs), are to be used to fulfill these procurements. Quotations shall be obtained from an adequate number of qualified sources. Pace’s Purchasing and Materials Management staff will need to determine and document that the price is fair and reasonable for their respective Small Purchase procurements. There are limited situations where the best value method can be utilized for this dollar threshold. Formal Request for Proposal (RFP) procedures will be followed when the best value method is the only option. See PC-06, Professional Services Contracts for detailed RFP procedures.

**B. Fair and Reasonable Price Determination**

A Price Analysis Form attached as Appendix III, shall be used for all Small Purchases. Small Purchases require evidence that the price is fair and reasonable and the price analysis may consist of:

- Developing and examining data from multiple sources whenever possible that prove or strongly suggest the proposed price is fair.
- Determining when multiple data consistently indicate that a given price represents a good value for the money.
- Documenting data sufficiently to convince a third party that the analyst’s conclusions are valid.

**C. Price Analysis**

Some form of price analysis shall be made and documented for every procurement action, including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement. At a minimum, Pace’s requisitioner shall develop independent cost estimates for each small dollar purchase before Pace receives quotes or pricing. The intent of performing a price analysis is to ensure Pace receives a fair and equitable price consistent with the required quality, delivery, and overall terms of the transaction. The price analysis for small purchases may consist of the completion of a Price Analysis Form attached as Appendix III.

**D. Construction and Public Works Contracts**

Exceptions to these general provisions are for construction contracts and public works contracts. The Davis-Bacon Act (federal prevailing wage determination, as determined by the Department of Labor) applies to construction contracts above



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\$2,000. Further information on Davis-Bacon regulations can be found at [www.dol.gov/dol/compliance](http://www.dol.gov/dol/compliance).

In accordance with the State of Illinois' Prevailing Wage Act, ALL public works contracts, regardless of dollar amount, must adhere to state prevailing wage determinations. Therefore, Small Purchase Procurements must adhere to these requirements. State prevailing wage determinations may be accessed at <http://www.state.il.us/agency/idol/rates/rates.HTM>.

- E. Architectural and Engineering (A/E) Service Contracts  
A/E services may be procured using Small Purchase procedures. However, the language in FTA Circular 4220.1F requiring the use of Brooks Act procedures for the procurement of A/E services still applies. The selection must be based initially on qualifications; Pace will request price only from the highest ranked proposer; failing agreements with this highest ranked proposer through negotiations, Pace will negotiate with the next highest ranked proposer. Only the Capital Financing and Infrastructure Department shall submit requisitions for and oversee the administration of A/E contracts that lead directly to a construction project as defined by the FTA.
- F. All Small Purchase contracts must contain remedies for breach of contract and a termination clause.
- G. FTA, State, and Other Clauses  
Since there are applicable FTA clauses even at the Small Purchase level, headquarters and division buyers must reference FTA Circular 4220.1F and Appendix IV of this PC-02-B for applicability of clauses for their specific procurement. Additionally, they must utilize the templates created for Small Purchases. These are located on the shared Purchasing drive.

See Appendix IV for applicable FTA, State, and Other clauses required at the small purchase level.

**IV. GENERAL PROCUREMENT PROCEDURES AND PROHIBITIONS**

- A. Procurement Method and Selection Procedures  
At the Small Purchase limit, Pace's solicitation documents shall:
  - 1. Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not contain features that unduly restrict competition. The description may include a statement of the qualitative nature of the material, product, or service to be procured when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use.



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2. 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 the item or services to be procured. The specific features of the named brand which must be met by bidders shall be clearly stated.
  3. Identify all requirements that bidders must fulfill and all other factors to be used in evaluating quotes.
- B. Geographic Restrictions  
Pace will not use geographic preferences in the award of Small Purchase contracts except in the case of procurement of A/E services, where knowledge of local conditions and building codes is a relevant factor in the quality of the A/E services. However, we will maintain a competitive environment for local A&E preferences.
- C. Prequalification of Vendors  
Pace does not maintain a list of "prequalified" firms that are used in acquiring goods and services.
- D. Awards to Responsible Contractors  
Pace shall make awards only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. At a minimum, Pace shall not award contracts to vendors who are on the federal *Excluded Parties List*. This list can be accessed by going to [www.epls.gov](http://www.epls.gov). Further, a *Responsibility Determination Form* shall be completed for the winning bidder. This form is attached as Appendix II.
- E. Purchasing and Materials Management Files  
The Purchasing and Materials Management Departments shall maintain a Procurement History file for their respective procurements which provides an audit trail from the initiation of a purchasing requirement through contract end or termination. Small purchase files require minimal documentation, but must include:
1. a requisition
  2. an independent cost estimate
  3. a sole source justification (if applicable)
  4. a completed *Method of Procurement Matrix Form*
  5. a completed *Responsiveness Checklist Form* for each quote received
  6. a completed *Responsibility Determination Form* for the vendor with the winning quote
  7. a list of sources solicited
  8. specifications/scope of work or item description
  9. an original solicitation document and addenda (if applicable)
  10. quotes submitted



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11. RFQ results (which shall be detailed in a bid tabulation form or RFP evaluation results if Best Value method utilized; see PC-06, Professional Services Contracts for procedures related to the RFP process)
12. a completed Price Analysis Form
13. a single source/single bid analysis form (for single bids only)
14. a completed Cost Analysis Form (for sole source or single bids only)
15. a contract or purchase order
16. any change orders (if applicable)
17. certificates of insurance

Headquarters buyers shall also utilize a *Contract Folder Checklist Form* for each contract file. See Appendix V.

### III. RESPONSIBILITIES

Small Purchases shall be handled through written requests for quotations (RFQs). Headquarters and division buyers are to obtain quotations through the informal RFQ process for Small Purchases. Quotations are sought by e-mail or facsimile, or in special circumstances via mail, whenever the estimated delivered cost of the purchase is \$3,001.00 and up to \$10,000.

Purchasing staff and Materials Management buyer planners, supervisor, or Department Manager shall be the only Pace representatives who shall have contact with potential bidders and vendors after a Purchase Requisition has been initiated unless otherwise authorized by Purchasing staff or Materials Management buyer planners, supervisor, or Department Manager. On receipt of fully completed and approved Purchase Requisitions, Purchasing personnel at headquarters and the operating Divisions will:

- A. Review requisitions for completeness; requisitions will be rejected and returned to the end user through Oracle if they are not complete and ready for processing by Purchasing personnel. A complete requisition will at a minimum include:
  - a description of the item or service to be procured; specifications or scopes of work if required
  - an Independent Cost Estimate (ICE)

See *PC-03, Requisitioning/Requesting Department Responsibilities* for further details on requirements.

- B. Ensure that all procurements are conducted in accordance with funding agency requirements
- C. Determine appropriate method of solicitation; for Small Purchases, an informal RFQ process is adequate. The *Method of Procurement Matrix Form* shall be completed for



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Small Purchases. This Form is attached as Appendix I. All sole source procurements at the Small Purchase level shall require a sole source justification.

- D. When a single quote was received, a single source single bid analysis form shall be completed.
- E. Determine appropriate contract type, i.e., standard purchase order, blanket purchase agreement or other contract, and prepare the appropriate document utilizing requisitioner input when appropriate.
- F. Budget Authorities are responsible for verification of charge accounts and the availability of funds, if applicable.

The Department Manager of Capital Financing and Infrastructure is the final Budget Authority on all capitolally funded requisitions. The Senior Project Manager of Long Range Planning is the final budget authority on all UWP funded requisitions.

- G. Submit electronic copy of requisition and scope of work, with blank insurance requirements form, to the Department Manager, Risk Management for proper insurance requirements for the solicitation. Upon receipt of the completed insurance requirements form from the Department Manager, Risk Management, print out and include in the solicitation package.
- H. Although this is typically minimal for Small Purchases, on occasion it may be necessary to review, with the requesting department, any requests for changes which are made by bidders on the specifications. All changes to general terms and conditions require review and approval from the Department Manager, Purchasing or the Department Manager, Materials Management\* and Pace's General Counsel as applicable. When changes being requested affect insurance and insurance related requirements, these changes must be reviewed and approved by the Department Manager, Risk Management.

\*Note: For those solicitations handled by the headquarters buyers, the Department Manager, Purchasing shall review and approve all changes to general terms and conditions; for those solicitations handled by the division buyers, the Department Manager, Materials Management shall review and approve all changes to general terms and conditions. If utilizing the simplified RFQ method, all changes must be communicated to all potential bidders.

For those small purchases being handled through the RFP process, see detailed procedures in PC-06, Professional Services Contracts.

- I. Submit to the requesting department, all requests for clarification of technical



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information received from bidders or proposers prior to RFQ closing date. When information has been returned from the requestor, buyers will respond to the vendors as required.

- J. Record quotes received in response to RFQs on a bid tabulation form
- K. Determine if quotes submitted are responsive and responsible. Use the *Responsiveness Checklist Form* to determine the responsiveness of each quote. Complete a *Responsibility Determination Form* for the winning vendor prior to awarding the contract (the *Responsiveness Checklist Form* and the *Responsibility Determination Form* are attached as Appendix II).
- L. Ensure that all required documentation is obtained from the Contractor to whom the contract is awarded, including a Certificate of Insurance and certifications. Forward the Certificate of Insurance to Risk Management for approval.
- M. Make a Fair and Reasonable Price Determination for all procurements. Minimal documentation is required for Small Purchases. See Appendix III for *Price Analysis Form* and Section II above for details on documentation required for Small Purchases.
- N. Return requisition for re-approval by proper budget authorities if bid price exceeds the ICE/original requisition amount by more than 10%.
- O. Prepare Purchase Order for the lowest responsive and responsible quote obtained (if determined to be within budget constraints).
- P. Approve and Print the Purchase Order through Oracle.
- Q. If Grant funded, Purchasing and Materials Management staff will submit their respective Purchase Order along with the contract file to Capital Financing and Infrastructure staff for appropriate manual authorization.
- R. Sign the Purchase Order and mail a copy to the vendor as required.
- S. Maintain contract files to show documentation of contract activities, including quoted prices, information regarding rationale for method of procurement, selection of contract type, vendor selection or rejection, and the basis for the contract price.

#### IV. CHANGE ORDERS

- A. A Change Order modifies the terms and conditions of an existing purchase order contract (i.e. standard purchase order or blanket purchase agreement). A Change Order must be issued to the Contractor in writing and signed by the Department



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Manager of Purchasing (for headquarters) or the Department Manager of Materials Management (for divisions). Change Orders to Small Purchases shall be limited and shall not cause the total contract value to exceed \$10,000. Since specific FTA clauses and other requirements are based on dollar amount, Purchasing and Materials Management shall be prohibited from allowing change orders that convert a small purchase limit contract into a formal procurement limit contract.

- B. The Requesting Department initiates the Change Order process by completing a **new** requisition in Oracle.
- C. The Requesting Department is responsible for clearly indicating the requisition is a Change Order by entering this information in the Item Description field on the requisition. The Requesting Department is responsible for preparing any written explanation as required to explain and/or justify the requested change(s). Changes to allow for time extension and/or additional tasks or scope will require a sole source justification and an Independent Cost Estimate (ICE).

See *PC-03, Requisitioning/Requesting Department Responsibilities* for further details regarding the responsibilities of the requisitioner; see *PC-12, Change Orders* for more detailed guidance on the change order process.

- D. Budget Authorities are responsible for verification of charge accounts and the availability of funds, if applicable.

The Department Manager of Capital Financing and Infrastructure is the final Budget Authority on all capially funded change order requisitions. The Senior Project Manager of Long Range Planning is the final budget authority on all UWP funded change order requisitions.

- E. The Purchasing Department or Materials Management buyer is responsible for reviewing their respective requested change(s) for compliance with Federal Transit Authority (FTA) Procurement Rules and internal Pace policies and if appropriate, modifying their respective, previously approved purchase order contract in accordance with the change(s) requested.

The Purchasing Department or Materials Management buyer is responsible for negotiating their respective Change Order with the Contractor. As with all procurement actions, change orders at the small purchase level require a fair and reasonable price determination.

- F. Forward electronic copy of change order requisition and scope (if applicable) to the Department Manager, Risk Management to assess if there will be a required change in insurance requirements.



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- G. The Purchasing Department Manager or Materials Management Department Manager shall approve their respective Change Order in the Oracle System.
- H. If Grant funded, Purchasing and Materials Management staff will submit their respective Change Order along with the contract file to Capital Financing and Infrastructure staff for appropriate manual authorization.
- I. The Department Manager, Purchasing or Department Manager, Materials Management will sign their respective Change Order and mail it to the vendor/fax it to the vendor as required.

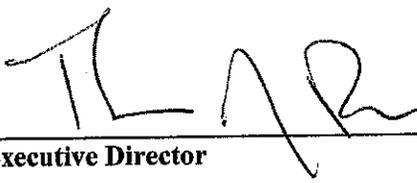
**V. VENDOR PERFORMANCE**

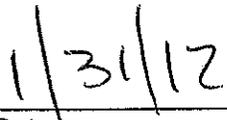
Vendor performance and contract administration documentation will be minimal for Small Purchase procurements due to the small dollar amount and the general nature of these types of procurements. Day to day contract administration is the requesting or end user department's responsibility. It is key that the requisitioning department manage and document vendor performance issues and alert Purchasing staff immediately if there are issues with vendor performance or contract compliance. Purchasing and Materials Management buyers are required to monitor and maintain on record, basic information regarding the performance of vendors.

**VI. RECEIPT OF GOODS**

Whenever goods are delivered or services rendered, using department personnel at headquarters and the operating divisions respectively, are required to:

- A. verify that items or services are delivered in a satisfactory manner
- B. verify that items delivered or services rendered are invoiced correctly
- C. enter a receiving for standard purchase orders or a release and a receiving for blanket purchase agreements using Oracle.

  
\_\_\_\_\_  
**Executive Director**

  
\_\_\_\_\_  
**Date**

**METHOD OF PROCUREMENT DECISION MATRIX**

To determine which method of procurement/solicitation type is suitable, classify your situation by checking off the appropriate boxes below. See FTA Circular 4220.1F for further guidance.

Req.# \_\_\_\_\_

<b>Micro-purchase</b>		<b>Competitive Procurement</b>		<b>Sole Source</b>	
Amount \$3,000 or less	<input type="checkbox"/>	Amt GT \$10,000	<input type="checkbox"/>	OEM, custom item	<input type="checkbox"/>
Multiple Sources Available	<input type="checkbox"/>	Multiple Sources Available	<input type="checkbox"/>	Only one source available	<input type="checkbox"/>
		Not an Emergency Purchase	<input type="checkbox"/>	Approved by FTA as sole source	<input type="checkbox"/>
		<b>Sealed Bid (IFB)</b>	<input type="checkbox"/>	Public exigency issue/emergency	<input type="checkbox"/>
		Complete and adequate specification or purchase description	<input type="checkbox"/>	Competition is inadequate after public solicitation	<input type="checkbox"/>
<b>Small Procurements</b>		Two or more responsible bidders willing to compete	<input type="checkbox"/>	A single responsive bid was received; it was determined that the bid docs were not restrictive & did not impede competition*	<input type="checkbox"/>
Amount GT \$3,000 and up to \$10,000	<input type="checkbox"/>	Selection can be made on price	<input type="checkbox"/>	<b>Emergency Procurement (subset of sole source)</b>	<input type="checkbox"/>
Multiple Sources Available	<input type="checkbox"/>	Procurement suitable for firm fixed price	<input type="checkbox"/>	There is a health/safety issue or issue with timely provision of public transit.	<input type="checkbox"/>
Not an Emergency Purchase	<input type="checkbox"/>	No discussion with bidders needed after receipt of offers	<input type="checkbox"/>	<b>Change Order (subset of sole source)</b>	<input type="checkbox"/>
		<b>Competitive Proposals (RFP)</b>	<input type="checkbox"/>	A contract modification to add additional tasks or requirements	<input type="checkbox"/>
		Complete specifications not feasible	<input type="checkbox"/>	A time extension	<input type="checkbox"/>
		Proposer input needed for specification	<input type="checkbox"/>	A Sole Source Exercise of Option**	<input type="checkbox"/>
		Two or more responsible proposers willing to compete	<input type="checkbox"/>		
		Discussion needed with proposers after receipt of proposal, prior to award	<input type="checkbox"/>		
		Fixed price can be set after discussions	<input type="checkbox"/>		
		<b>Time and Materials Contract (subset of RFP)</b>	<input type="checkbox"/>		
		Fixed price cannot be set for work; Complete extent of work unknown, whether time, or material use, or both	<input type="checkbox"/>		

\*Conduct vendor survey to determine why other vendors did not bid. Complete Single Source/Single Bid Analysis Form. If it is determined that the bid docs were restrictive and did impede competition, we must rebid/resolicit because this is not an allowable sole source (in accordance with FTA 4220.1F).

\*\*It is considered a sole source award or non-competitive procurement action whenever you fail to evaluate Options before awarding the underlying contract or negotiating a lower or higher Option price after awarding the underlying contract (in accordance with FTA 4220.1F).

**Comments:**

### RESPONSIVENESS CHECKLIST

This form shall be completed for each bidder or proposer. Review non-responsive determinations with the Department Manager of Purchasing and document the bid tabulation or evaluation scoring summary with the results.

<b>Requisition No.:</b>		<b>Opening Date:</b>	
<b>Description:</b>			
<b>Buyer:</b>			
<b>Bidder or Proposer:</b>			

<u>Solicitation Responsive Requirements</u>	<u>Yes (✓)</u>	<u>No (✓)</u>	<u>Comments</u>
Bid/Proposal submitted on time			
Bid Submitted in a sealed envelope (IFB only)			
Bid security/bid bond (if applicable)			
Submitted one copy of the price proposal in a separate envelope (RFP only)			
Submitted all original bid documents in their entirety; signed and dated contract signature page			
Original bid documents submitted without modification, alteration, or supplemental statements (IFB only)			
Original RFP documents, with clearly noted changes to Terms and Conditions, if any (RFP only)			
Acknowledged and included all addenda as instructed (if applicable)			
Signed and Notarized Non Collusion Affidavit			
Completed DBE Schedule A (if applicable)			
Completed DBE Schedule B (if applicable)			
Completed DBE Schedule C (if applicable)			
Completed DBE Schedule D (if applicable)			
Signed, dated, and completed Buy America Certification (if applicable)			
Itemize additional responsiveness items as needed (i.e. MSDS sheets, "or equal" documents/drawings, proof of licenses/certifications, etc.)			

End user's signature if verification of technical responsiveness is required: \_\_\_\_\_  
Signature/Date

**\*\*Non-responsive bids are to be noted on the bid tabulation sheet and reviewed with the Purchasing Manager**

**RESPONSIBILITY DETERMINATION FORM**

This form shall be complete for the winning bidder/proposer of all procurements. Complete the appropriate research for each area and provide a short description of the research and results. Attach additional page or supplemental detail as needed. Note: Buyers should also complete this form for an **apparent** winning bidder/proposer who is deemed **NOT** responsible and not awarded a contract as a result of this process; include a notation to this effect. Attach additional details through a formal memo if required.

<b>Req No.</b>	
<b>Bidder/Proposer:</b>	
<b>Date:</b>	
<b>Buyer:</b>	

<b>Description</b>	<b>Acceptable (✓)</b>		<b>Comment</b>
1. Appropriate financial, equipment, facility, and personnel	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
2. Ability to meet the delivery/project schedule	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
3. Satisfactory period of performance	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
4. Satisfactory record of integrity and past performance	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
5. Receipt of all necessary data from supplier, including insurance certificates, etc.	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
6. Not debarred or suspended by the Federal Government; attach documentation from <a href="http://www.epls.gov">www.epls.gov</a> website.	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
7. Submitted signed Suspension and Debarment forms	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
8. Submitted signed Lobbying Certificates	<input type="checkbox"/> Yes	<input type="checkbox"/> No	

**PRICE ANALYSIS**

Buyers shall complete this form for all procurement actions GT \$3,000.00 where competition was adequate.

<b>Contract No.:</b>	
<b>Change Order No.:</b>	
<b>Contractor:</b>	
<b>Buyer:</b>	
<b>Date:</b>	

The evidence compiled by a price analysis includes:

- Developing and examining data from multiple sources whenever possible that prove or strongly suggest the proposed price is fair.
- Determining when multiple data consistently indicate that a given price represents a good value for the money.
- Documenting data sufficiently to convince a third party that the analyst's conclusions are valid.

The pricing quoted by the winning bidder or proposer is deemed to be fair and reasonable based on the following type of analysis: (check all that apply)

- Comparison with competing suppliers' prices or catalog pricing for the same item (Complete comparison matrix and attach supporting quotes or catalog pages.)
- Comparison of proposed pricing with ICE for the same item. (Include ICE in the contract file and explain factors influencing any differences found. Complete summary matrix.)
- Comparison of proposed pricing with historical pricing from previous purchases of the same item, coupled with market data such as Producer Price Index or Inflation Rate over the corresponding time period. (Attach data and historical price record).
- Analysis of price components against current published standards, such as labor rates, dollars per pound etc. to justify the price reasonableness of the whole. (Attach analysis to support conclusions drawn.)

**SUMMARY:**

Item	Proposed Pricing	Average Market Price	Competitor A	Competitor B	In-House Estimate	Other

**ANALYSIS:**

**ATTACHMENTS:**

- 1.

**Federally Required and Other Model Clauses Applicability Matrix**  
 Source: FTA Best Practice Procurement Manual, Appendix A

No.	FTA Clause	Dollar Threshold	Included in Templates?							
			Micro		Small		Formal			
			Goods	Services	Goods	Services	Goods	Services	Goods	Services
1	Fly America Requirements	>\$3,000.00						✓		✓
3	Charter Bus and School Bus Requirements	>\$3,000.00								✓
4	Cargo Preference Requirements	>\$3,000.00							✓	✓
5	Seismic Safety Requirements	>\$3,000.00							✓	✓
6	Energy Conservation Requirements	>\$3,000.00							✓	✓
8	Bus Testing*	>\$3,000.00								
9	Pre Award and Post Delivery Audit Requirements	>\$3,000.00			✓					
11	Access to Records and Reports	>\$3,000.00							✓	✓
12	Federal Changes	>\$3,000.00							✓	✓
15	Recycled Products	>\$10,000.00 (annual)								
16	Davis Bacon and Copeland Anti Kickback Acts	> \$2,000.00	✓						✓	✓
18	(Blank)	N/A								
19	No Government Obligation to Third Parties	>\$3,000.00							✓	✓
20	Program Fraud and False or Fraudulent Statements and Related Acts	>\$3,000.00							✓	✓
21	Termination**	> \$10,000.00	✓						✓	✓
22	Government-wide Debarment and Suspension**	>\$25,000	✓						✓	✓
23	Privacy Act	>\$3,000.00							✓	✓
24	Civil Rights Requirements	>\$3,000.00							✓	✓
26	Patent and Rights in Data	>\$3,000.00								✓
27	Transit Employee Protective Agreements	>\$3,000.00							✓	✓
28	Disadvantaged Business Enterprises (DBE)	>\$3,000.00							✓	✓
29	(Blank)	N/A								
30	Incorporation of FTA Terms	> \$3,000.00							✓	✓
31	Drug and Alcohol Testing	> \$3,000.00							✓	✓

\*Bus testing clauses and requirements are needed for all rolling stock contracts; the buyer and the end user incorporate these requirements in specific exhibits for these types of contracts.  
 \*\*Face policy on these clauses is more stringent than the FTA and are included in all contracts regardless of value.  
 \*\*\*State of IL also requires State FOIA, Non-Collusion, and IL Prevailing Wage Act language

**Single Source/Single Bid Analysis**

*Complete this form when Pace receives only one bid in response to an IFB or RFP or to an RFQ if over \$3,000 and up to \$10,000 in value.*

<p>Requisition/IFB or RFP#: _____</p> <p>Product/Service to be Procured: _____</p> <p>Bid or Proposal Due Date: _____</p> <p>Number of Solicitations Requested: _____</p> <p>Number of Bids Received: _____</p> <p>Reasons for Lack of Competition (please contact suppliers for their reasons for not bidding):</p> <ul style="list-style-type: none"><li>Lack competency <input type="checkbox"/></li><li>Lack available resources <input type="checkbox"/></li><li>Poor timing <input type="checkbox"/></li><li>Short response due date <input type="checkbox"/></li><li>Other: _____</li></ul>	<p><b>Action Plan</b></p> <p>Award Contract <input type="checkbox"/></p> <p>Basis for Awarding Single Bid Contract: _____</p> <p>Extend Deadline (modify solicitation) <input type="checkbox"/></p> <p>New Due Date: _____</p> <p>Re-solicit <input type="checkbox"/></p> <p>New Solicitation Due to be Completed: _____</p> <p>Projected Due Date: _____</p> <p>Signed: _____</p> <p>Title: _____</p> <p>Date: _____</p>
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**Department**  
**PURCHASING**

**Subject**  
**FORMAL PROCUREMENTS**

**I. PURPOSE**

To establish formal procurement policies for those contracts that will exceed \$10,000<sup>1</sup> to ensure that:

- A. All procurements are best suited to the needs of Pace and are obtained at the lowest possible price or for the best overall value in accordance with Pace’s Ordinance SBD 92-102, Regulations Governing Public Bidding as amended.
- B. All procurement funded with federal monies and/or grants from the federal government, State of Illinois, or Regional Transportation Authority (RTA) shall be handled in accordance with Federal Transit Administration (FTA) Circular 4220.1F or most recent version.
- C. All non-federally funded procurements will also be processed in accordance with FTA Circular 4220.1F or most recent version.

For procurements not funded in accordance with item B above and in the event that legitimate business reasons or market conditions necessitate the waiving of any requirements established by FTA Circular 4220.1F, those reasons and the specific requirements proposed for waiver must be identified and documented by the requisitioner or other responsible party. Such waivers may be granted on an exceptions basis for a specific procurement subject to the approval and acceptance by the Department Manager, Purchasing or his/her designee. Under no circumstances shall categorical exclusions to compliance with the FTA Circular be allowed.

- D. Pace allows for full and open competition as the preferred method of procurement.
- E. Pace only allows for sole source or non-competitive procurements when it is fully justified and allowable, in accordance with Pace’s Ordinance SBD 92-102 as amended and FTA Circular 4220.1F or most recent version.
- F. All Pace staff shall abide by Pace’s Ethics Ordinance No. SBD 04-61 and State of Illinois Public Act 93-617, which detail standards of conduct, specifically as they pertain to the procurement process.
- G. Pace negotiates pricing whenever feasible in non-competitive procurement situations.
- H. Pace treats all vendors fairly in the bidding process.
- I. Pace obtains all appropriate approvals before contracts are awarded, in accordance with Pace's administrative policy.

**II. GENERAL PROCUREMENT GUIDELINES**

<sup>1</sup> The exception would be costs associated with employee compensation and benefits and other costs covered under Pace’s Check Request Procedures (refer to FI-06).



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Consistent with Pace’s Ordinance SBD 92-102 and the Regional Transportation Authority (RTA) Act, 70 ILCS 3615/1.01 et seq. as may be applicable), formal procurement procedures shall be followed for amounts greater than \$10,000 in aggregate value. Although FTA Circular 4220.1F sets the small purchase threshold at \$100,000, Pace adheres to the more stringent requirement of \$10,000, according to Ordinance SBD 92-102 and the RTA Act.

Purchases that exceed \$10,000 require full and open competition unless fully justified as sole source or non-competitive procurements. Formal competitive procurement methods (sealed bid/competitive proposals/letters of interest and qualifications) must be utilized and most procurements of this nature are subject to federal and/or state requirements as may be applicable.

It is against Pace policy and a violation of FTA Circular 4220.1F to separate related costs (i.e., splitting procurements) for the express purpose of avoiding the competitive bid process.

Additionally, apart from inconsistent requirements imposed by Federal laws or Federal regulations, Pace shall comply with the requirements of 49 U.S.C. § 5325(h) and shall not use exclusionary or discriminatory specifications in its procurements.

During the conduct of any competitive procurement at Pace, extreme care will be exercised to ensure that each vendor is treated fairly and that all vendors are given an equal opportunity to participate. Pace’s procurement documents will not include provisions that knowingly or unduly restrict competition or place unreasonable requirements on firms in order for them to qualify to do business with Pace. In addition, Pace will ensure that specifications/scopes of work are written in a clear and concise manner and that no arbitrary action will occur in the procurement process.

Pace Board approval for items that exceed \$100,000 is required prior to contract award. Appropriate internal approvals will be obtained after the Pace Board approves items that exceed \$100,000 in value but prior to formal execution of the contract by the Executive Director. For any items that exceed \$25,000 (but that do not exceed \$100,000), a report is prepared and submitted to the Board. These reports are submitted to the board after contract award. Appropriate internal approvals will also be obtained before contracts that exceed \$25,000 are formally executed by the Executive Director. These internal approval processes (known commonly as red and green folder approval processes) are outlined in detail in the *Purchasing Department Roles and Responsibilities – Operating Manual*.<sup>2</sup>

All purchases in excess of \$10,000, i.e., all formal procurements, are handled by the Purchasing Department at Headquarters. Division buyers and Materials Management staff are strictly prohibited from processing any procurement in excess of \$10,000.

Through Oracle’s requisitioning system, technical specifications/scopes of work, and independent cost estimates, and/or any other specific requirements shall be prepared by the appropriate Requesting Department Manager and submitted to the Purchasing Department, who will prepare and publicly release

<sup>2</sup> This Manual will detail all internal processes and specific tasks and duties to be handled by the Purchasing Department.



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an Invitation for Bid (IFB), a Request for Proposal (RFP), or Letters of Interest and Qualifications (LIQs) as appropriate. In limited situations, a Request for Information (RFI) may be issued to assist Pace in developing a scope of work/contract requirements for a solicitation which may be bid out in the future. IFBs, RFPs, LIQs, and RFIs are publicly advertised in a newspaper of general circulation as well as posted and downloadable from Pace’s website.

Whenever bids or proposals are being sought for purchase contracts, a due date for the submission of bids or proposals, and the location and time for the bid opening or proposal deadline will be advertised. Only bids or proposals which are received by the advertised due date and time will be considered by Pace.

Pace’s specifications will state the type of contract that will be awarded.

FTA Circular 4220.1F requires a fair and reasonable price determination in connection with every procurement action. Formal procurements require more thorough documentation detailing fair and reasonable pricing and how the determination was derived.

The following outlines the general requirements of Pace Procurements that exceed \$10,000 in value:

**A. Method of Procurement Documentation**

Purchasing staff shall determine the appropriate method of solicitation for all formal procurements. The Method of Procurement Matrix Form shall be completed to document this process. For detailed procedures on documentation of selection of the appropriate method of solicitation, see *Purchasing Department Roles and Responsibilities – Operating Manual*.

**B. Written Procurement Selection Procedures**

Pace’s solicitation selection procedures shall:

1. Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features that unduly restrict competition. The description may include a statement of the qualitative nature of the material, product, or service to be procured when necessary, shall set forth those minimum essential (salient) characteristics and standards to which it must conform if it is to satisfy its intended use.
2. 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 the item or services to be procured. The specific features of the named brand which must be met by offerors shall be clearly stated.
3. Identify all requirements that offerors must fulfill and all other factors to be used in evaluating bids or proposals.

**C. Geographic Restrictions**

Pace will not use geographic preferences in the award of contracts except in the case of procurement of A/E services, where knowledge of local conditions and building codes is a relevant factor in the quality



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of the A/E services. However, Pace will maintain a competitive environment for local A&E preferences.

**D. Prequalification of Vendors**

Pace does not maintain a list of "prequalified" firms that are used in acquiring goods and services.

**E. Options**

Option items/years may be included in contracts entered into by Pace. An option is a unilateral right in a contract by which, for a specified time, Pace may elect to purchase additional equipment, supplies, or services called for in the contract, or may elect to extend the term of the contract. If Pace chooses to use options, the requirements below apply:

**1. Evaluation of Options**

If required in the solicitation, the option quantities or periods contained in the contractor's bid or offer should be evaluated if it is Pace's intention to award that option. When options have not been evaluated as part of the original award, the exercise of such options shall be considered a sole source procurement.

- **Evaluation Required** - In general, Pace will evaluate bids or offers for any option quantities or periods contained in a solicitation if it intends to exercise those options after the contract is awarded.
- **Evaluation Not Required** - Pace need not evaluate bids or offers for any option quantities when Pace determines that evaluation would not be in its best interests. An example of a circumstance that may support a determination not to evaluate bids or offers for option quantities is when Pace is reasonably certain that funds will not be available to permit it to exercise the option.

**2. Exercise of Options**

Pace must ensure that the exercise of an option is in accordance with the terms and conditions of the option provisions stated in the initial contract awarded.

An option may not be exercised unless Pace 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. Accordingly, Buyers must conduct a market analysis at the time the option is being exercised.

**F. Tag-Ons**

Pace will not participate in the use of tag-ons. A "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. "In-scope" changes are not considered tag-ons. See *PC-16, Sole Source and Non-Competitive Procurements* for further details on policies pertaining to change orders or contract modifications and cardinal and in-scope changes.

**G. Responsiveness**



**Department**  
**PURCHASING**

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For any procurement that is awarded, Pace shall document the responsiveness of each bid received and shall fully detail why a bid was deemed non-responsive. For detailed procedures in determining and documentation of responsiveness, see *Purchasing Department Roles and Responsibilities – Operating Manual*.

**H. Award to Other Than the Lowest Bidder or Offeror**

Federal law authorizes Pace to award a contract other than the lowest bidder if that award furthers an objective consistent with the purpose of Title 49 of the United States Code, which includes improved long term operating efficiency and lower long term costs. Additionally, an award of a contract other than the lowest bidder is permitted when stated in the evaluation factors of the solicitation. Pace will include a statement in its solicitation document reserving the right to award the contract to other than low bidder or offeror.

**I. Awards to Responsible Contractors**

If federal assistance supports the procurement, an award may be made only to “responsible” contractors possessing the ability, willingness, and integrity to perform successfully under the terms and conditions of the contract. Responsibility is a procurement issue that is determined by Pace under the standards of Title 49 of the United States Code by an affirmative demonstration of the prospective contractor and any proposed subcontractors.

Therefore, Pace will make awards only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration shall be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. Pace shall not award contracts to vendors who are on the List of Parties Excluded from Federal Procurement or Non-procurement contracts. This list can be accessed by going to [www.epls.gov](http://www.epls.gov). Further, Pace shall not award contracts to vendors who are debarred by State or local government agencies.

The determination of responsibility will be documented in the contract file. For detailed procedures in determining and documentation of responsibility, see *Purchasing Department Roles and Responsibilities – Operating Manual*.

**J. Rejection of Bids and Proposals**

Pace reserves the right to reject any and all bids submitted in response to an invitation for bids or request for proposals.

**K. Solicitation Mailing List**

In addition to the general requirement for full and open competition the agency maintains an informal bidders list of eligible and qualified vendors who have expressed an interest in receiving notification of solicitations. The bidders list contains the names, addresses and points of contact for entities that will receive notification of the solicitation. Further, all competitive procurement opportunities/solicitations over \$10,000 are posted online and are downloadable from Pace’s website; Pace does not preclude any vendor from submitting a bid or proposal in response to these procurement opportunities/solicitations



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unless a conflict of interest issue exists as defined in The Common Grant Rules,<sup>3</sup> Chapter VI, paragraph 2.a (4) (h) and FTA Circular 4220.1F or most recent version, if applicable.

**L. Pre-Bid and Pre-Proposal Conferences**

Pre-bid and pre-proposal conferences are generally used in complex acquisitions as a means of briefing prospective offerors and explaining complicated specifications and requirements or when a DBE goal has been assigned. The conference is chaired by the responsible Purchasing Department staff member and is an open forum where potential respondents may address ambiguities in the solicitation documents. Notice of the conference is included in the solicitation at the time of issuance. Attendance at pre-bid and pre-proposal meetings are not mandatory and all questions and clarifications to the solicitation documents or process must be made available to all potential bidders and offerors through a written addendum issued by the responsible buyer.

**M. Contract Provisions**

All contracts that exceed \$10,000 shall include provisions to define a sound and complete agreement. All contracts that exceed \$10,000 shall include all applicable FTA and State of Illinois clauses as outlined in Appendix I. Appendix I also outlines additional required clauses for contracts that exceed \$100,000. In addition, contracts and subcontracts shall contain contractual provisions that allow for:

1. Administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, including sanctions and penalties as may be appropriate. (All contracts in excess of the small purchase threshold)
2. Termination for cause and for convenience by including the manner by which it will be affected and the basis for settlement.

**N. Liquidated Damages Provisions**

It is Pace's policy to include "liquidated damages" provisions in contracts where it may reasonably expect to suffer damages through delayed contract completion and to the extent or amount of such damages would be difficult or impossible to determine. The assessment for damages shall be at a specific rate per business day for each business day of overrun in contract time; and the rate must be specified in the contract.

**O. Progress Payments**

In some circumstances, Pace may enter into contracts that require the use of progress payments. Progress payments shall only be made to the contractor for costs incurred in the performance of the contract. In addition, the agency must obtain title to the property (materials, work in progress, finished goods) for which the progress payments are made. The agency does not make advance payments to a contractor prior to the incurrence of costs by the contractor.

**P. Purchasing Department Files**

The Purchasing Department shall maintain a Procurement History file which provides an audit trail

<sup>3</sup> "Common Grants Rules" refers to DOT regulations, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," 49 CFR Part 18, which for Pace's purposes apply to Federal grants and cooperative agreements with governmental recipients of Federal assistance including Indian tribal governments.



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from the initiation of a purchasing requirement through contract award and contract management. Where appropriate, the files will include, but not be limited to, documentation such as, the requisition, independent cost estimate, list of sources solicited, specifications/scope of work, original solicitation, addenda, proposals, bid evaluation results, responsiveness determination, responsibility determination, fair and reasonable price determination, contract or purchase order, change orders, Board Recommendations, copies of public notices, initial insurance documents, evidence of original performance/payment or other bond documents, notice of award, notice to proceed and all other related correspondence.

**Q. Cost and Price Analysis**

Pace shall perform and document some form of cost or price analysis for every procurement action, including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement. For formal procurements, more documentation is required. The intent of performing a cost or price analysis is to ensure Pace receives a fair and equitable price consistent with the required quality, delivery, and overall terms of the transaction. At a minimum, Pace's Requesting Department shall develop independent cost estimates (ICEs) for each procurement action before Pace receives bids or proposals. This cost estimate should be attached to the requisition to avoid delays in processing. A thorough cost analysis is also required when adequate price competition is lacking and for sole source procurements.

**1. Cost Analysis**

Pace must obtain a cost analysis when a price analysis will not provide sufficient information to determine the reasonableness of the contract cost. Pace shall perform a cost analysis when the offeror submits elements (that is, labor hours, overhead, materials, and so forth) of the estimated cost, (such as professional consulting and A&E contracts, and so forth). Pace will also obtain a cost analysis when price competition is inadequate, when only a sole source is available, even if the procurement is a contract modification, or in the event of a change order. Pace, however, need not obtain a cost analysis if it can justify price reasonableness of the proposed contract based on a catalog or market price of a commercial product or service sold in substantial quantities to the general public or based on prices set by law or regulation.

- i. **Federal Cost Principles** - Federal cost principles contain many requirements about the allowability and allocability of costs. Pace will adhere to these principles when federal funds are utilized in third party contracts. Costs or prices based on estimated costs for contracts will be allowable only to the extent that costs incurred or cost estimates included in negotiated prices are consistent and comply with applicable Federal cost principles.
- ii. **Establishing Indirect Cost Rates** - For contracts other than A&E contracts, if the third party contractor or subcontractor does not have an approved Government indirect cost rate agreement, the contract's dollar value should determine how that rate is verified.
  - **Contracts of \$5 Million or Less** - FTA will accept the audit recommendations of the contractor's certified public accountant, or indirect cost information in the contractor's annual statement to their stockholders, shareholders, or owners, or examples of acceptance of their rates by other governmental agencies within the last six months.
  - **Contracts Exceeding \$5 Million** - If the contract exceeds \$5 million, then the Defense Contract Audit Agency, another Federal cognizant audit agency, or an accounting firm



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approved by the Federal Government to perform audits for the Federal Government, must verify the contractor's or subcontractor's rates.

iii. Profit – Pace will negotiate profit as a separate element of the cost for each contract in which there has been no price competition, and in all acquisitions in which Pace performs or acquires a cost analysis. To establish a fair and reasonable profit, Pace needs to consider the complexity of the work to be performed, the risk undertaken by the contractor, the contractor's investment, the amount of subcontracting, the quality of the contractor's record of past performance, and industry profit rates in the surrounding geographical area for similar work.

2. Price Analysis

If Pace determines that competition was adequate, a price analysis, rather than a cost analysis, is required to determine the reasonableness of the proposed contract price. One method to record this price analysis is through the use of a Price Analysis Form on which Purchasing personnel can annotate a finding of fair and reasonable pricing and check off the most common reasons why this would be so, such as catalog or market prices offered in substantial quantities to the general public, regulated prices (for example, for many utilities purchases), or a comparison with recent prices for similar goods and services.

R. Contract Administration/Post-Award Activities

Pace shall ensure federal and state funds are expended in a responsible manner through its contract administration activities. Contract administration, those activities performed after a contract has been awarded, ensures that the contractor's performance meets all requirements set forth in the contract. The day to day contract administration and monitoring of the contractor's performance, in terms of technical and contractual issues, shall be the responsibility of the Project Manager/Requesting Department. Likewise, approval of invoices and payment are the responsibility of the Project Manager/Requesting Department. If there are issues with performance in terms of technical or contractual compliance, the Purchasing Department shall be notified immediately to evaluate Pace's rights and responsibilities in terms of contract breach. For serious contractual issues requiring legal input, the Purchasing Department shall contact the Legal Department immediately.

Contracts involving the expenditure of public funds are subject to review and audits by funding agencies. As contract administration is a primary function of the Requesting Department, a central file for post-award contract activities with all written documentation produced during the life of the contract shall be kept in the Requesting Department files. The post-award file contents shall include, at a minimum, the executed contract and notice of award/notice to proceed if applicable; bond-related documentation; contract-required insurance documentation; post-award correspondence concerning the contract; documentation of submittals by the contractor and corresponding approvals by Pace; all documentation relating to changes to the contract, claims, disputes and final close-out of the contract.

Post award, verification of invoiced costs and contractor adherence to budgets and schedules shall be the responsibility of the Project Manager/Requesting Department. The review of invoiced costs includes determining that good/services invoiced conform to the scope and pricing outlined in the contract, verifying adherence to freight terms designated in the contract and confirming that sales tax



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has been exempted where applicable. The Project Manager/Requesting Department is responsible for addressing issues related to invoiced costs and for obtaining revised billing when necessary. Additionally, ensuring the contractor submits insurance certificates, bonding documentation, and all other contractually required documentation shall be the responsibility of the Project Manager/Requesting Department. Final contract closeout activities will be administered by the Project Manager/Requesting Department and other involved parties and shall include those items listed on the "Contract Closeout Checklist" prior to issuance of final payment to the contractor.

The Purchasing Department's general role in Pace's contract administration activities is to coordinate all involved parties so that change order approvals, contract modifications, and exercise of options are handled in accordance with Pace procedures and in accordance with federal guidelines regarding documentation requirements. A price or cost analysis for change orders and a market analysis for options are also the Purchasing Department's responsibility. However, the Project Manager or Requesting Department is responsible for submitting the Independent Cost Estimate and assisting in analyzing current market information in order for the Purchasing Department to conduct an adequate cost, price, or market analysis.

### III. SOLICITATION AND SELECTION METHODS

#### A. Sealed Bids/Invitation for Bids (IFB)

The IFB is a formal competitive procurement process that is used for the purchase of goods and services that may exceed \$10,000.

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

1. A complete, adequate and realistic specification or purchase description is available
2. Two or more responsible suppliers are willing and able to compete effectively for the contract
3. The procurement lends itself to a firm-fixed price contract, and selection of the successful bidder can be made on the basis of price
4. No discussion with bidders is needed after receipt of offers.
5. Award is made to the lowest, responsible and responsive bidder

For more detail on Pace's policies pertaining to the IFB process, please see *PC-04, Technical Specifications*.

#### B. Best Value or Request for Proposals (RFP)

Best Value or Request for Proposals 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 merit and price.

For more detail on the policies pertaining to the RFP Process, see *PC-06, Professional Services Contracts*.

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### C. Two Step Procurements

Pace shall utilize two-step procurement procedures for technology related (and other applicable types of) procurements.

Pace typically allows the use of two-step procurement procedures in Best Value procurements (RFPs), provided the opportunity for full and open competition is retained. The following describes the two-step procurement process:

#### 1. Review of Technical Qualifications and Approach

The first step is a review of the prospective contractors' technical approach to Pace's request and technical qualifications to carry out that approach. Pace then may narrow the competitive range to prospective contractors that demonstrate a technically satisfactory approach and have satisfactory qualifications. Pricing in terms of fixed hourly rates is typically also submitted and evaluated at this stage and are fixed for the term of their contract.

#### 2. Review Proposals Submitted by Qualified Prospective Contractors

The second step consists of soliciting and reviewing complete proposals, including price, submitted by each prospective contractor determined to be qualified in the previous step. Absent exceptional circumstances, Pace should attempt to solicit proposals from at least three qualified prospective contractors.

Unlike qualifications-based procurement procedures required for A&E services, Pace shall consider all proposal prices submitted as well as other technical factors, rather than limiting reviews to the most qualified bidder or offeror.

### D. Letters of Interest and Qualifications (LIQs) or Qualifications-Based Procurements

Special procedures, in the form of Letters of Interest and Qualifications, will be used for competitive negotiation procedures for the procurement of qualifications-based Architectural and Engineering (A/E) services in accordance with the Brooks Act. Related services such as program management, construction management, feasibility studies, preliminary engineering, design, surveying, mapping, or related services requiring the services of a registered or licensed engineer shall also be procured using the process set forth in this subsection and as elaborated in *PC-15, Architectural and Engineering Services Contracts*.

Only the Capital Financing and Infrastructure Department shall submit requisitions for and/or oversee the administration of A/E contracts that lead directly to a construction project as defined by the FTA.

Following this method, competitors' qualifications are evaluated and the most qualified competitor is selected subject to the successful negotiation of fair and reasonable compensation. Under this method, Pace may not include pricing as an evaluation factor in determining the most qualified Offeror. The major difference with A/E procurements is that pricing is not a factor of the committee's evaluation of the proposal submittals. Negotiations are conducted with the most qualified Offeror. If negotiations with the most qualified Offeror cannot be successfully completed, negotiations are then initiated with the next best qualified Offeror. This method of procurement is used only for the procurement of A/E related services which require licensed engineers and other related disciplines. The nature of the firm

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performing the services does not determine whether it will be selected through the use of qualifications-based procurement procedures. For example, if a well-known A/E firm offers to provide mapping services not related to construction, alteration, or repair of real property, Pace may not use qualifications-based procurement procedures to evaluate that contractor's offer. In contrast, if a firm that does not generally provide A/E services offers to provide mapping services that are directly in support of, directly connected to, or directly related to or lead to construction, alteration, or repair of real property, Pace must evaluate that offer using qualifications-based procurement procedures.

For Design-Build procurements, the preponderance of the cost shall be for A/E services to qualify for a qualifications-based procurement method (see Section IV, E below). In the less usual circumstance in which the cost of most work to be performed will consist of costs for architectural and engineering, program management, construction management, feasibility studies, preliminary engineering, design, architectural engineering, surveying, mapping, or related A/E services, Pace shall use qualifications-based procurement procedures based on the Brooks Act. However, typically the construction costs of a design-build project are usually predominant so that Pace would be expected to use competitive negotiations or sealed bids for the entire procurement rather than the qualification-based Brooks Act procurement procedures. Specifically, when construction costs will be predominant, unless FTA determines otherwise in writing, Pace may not use qualifications-based procurement procedures to acquire architectural engineering, program management, construction management, feasibility studies, preliminary engineering, design, architectural and engineering, surveying, mapping, or related A/E services unless required by State law adopted before August 10, 2005.

#### E. Non-Competitive (Sole Source) Procurement

Procurement by non-competitive proposals (sole source) 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:

1. Item is only available from a single source
2. The public exigency or emergency for the requirement will not permit a delay resulting from the competitive solicitation process
3. FTA authorizes non-competitive negotiations
4. After solicitation of a number of sources, competition is determined inadequate only when one of the above circumstances applies, shall sole source or non-competitive procurement methods be used.

For all procurements that exceed \$10,000 and where competition was not adequate, a Cost and Price Analysis must be completed, i.e., verifying the proposed cost data, the projections of the data, and the evaluation of the specific elements of costs and profit, is required. Pace, however, need not obtain a cost analysis if it can justify price reasonableness of the proposed contract based on a catalog or market price of a commercial product or service sold in substantial quantities to the general public or based on prices set by law or regulation.

At a minimum, if a cost analysis cannot be performed, Pace will compare vendor's pricing with the independent cost estimate data submitted by the Requesting Department and other pricing data, and



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ensure that the profit and G&A rates, if available, are acceptable. The cost and price analysis and documentation of the sole source justification shall be included in the Procurement/Contract file.

**F. Single Bid or Proposal**

Upon receiving a single bid or proposal in response to a solicitation, Pace should determine if competition was adequate. This should include a review of the specifications for undue restrictiveness and should include a survey of potential sources that chose not to submit a bid or proposal.

**1. Adequate Competition**

Per FTA Circular 4220.1F, competition is to be determined adequate when the reasons for few responses were caused by conditions beyond Pace’s control. Many unrelated factors beyond Pace’s control might cause potential sources not to submit a bid or proposal. If the competition can be determined adequate, FTA’s competition requirements will be fulfilled, and the procurement will qualify as a valid sole source. Even if competition was determined to be adequate, we must process the single bid as a sole source and similar processes required of the sole source procurement shall be followed.

**2. Inadequate Competition**

Per FTA Circular 4220.1F, competition is to be determined inadequate when, caused by conditions within Pace’s control. For example, if the specifications used were within Pace’s control and those specifications were unduly restrictive, competition will be inadequate. If competition is deemed inadequate based on Pace’s actions, then we must re-solicit bids or proposals.

Purchasing staff shall document this process by completing a *Single Source/Single Bid Analysis Form*. For detailed procedures on procurements that resulted in single bids or single proposals, see *PC-16, Sole Source and Non-Competitive Procurements* and the *Purchasing Department Roles and Responsibilities – Operating Manual*.

**G. Intergovernmental, Joint Procurement, and Cooperative Purchasing or Schedule Agreements**

To foster greater economy and efficiency, Pace may enter into State and local intergovernmental or interagency agreements for procurement or use of common goods and services. Pace may also plan procurements in advance with other governmental users, and competitively award contracts in which several governmental entities may draw upon to meet their needs. This approach creates economies of scale, reduces procurement lead times and reduces administrative effort and expense. The requirements and standards of this manual apply to these agreements.

Buyers shall confirm that the items or services are covered under the joint or cooperative purchasing programs by checking each programs subsequent websites for listings of available contracts or other sources of information. Additionally, Buyers shall conduct a cost or price analysis to determine whether the price is fair and reasonable. Further, all required FTA and State of Illinois clauses shall be incorporated by issuing an addendum to the joint/cooperative purchasing contract. Caution must be applied to ensure that the technical changes to the cooperative agreement are not so substantial that Pace cannot use the pricing in the existing contract.

These procedures do not apply for Intergovernmental Agreements, in which no federal funds are



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utilized, and which are executed between Pace and other governmental entities for services and financial arrangements and that are handled outside of the Purchasing Department/Purchasing process.

**H. Piggyback Contracts**

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 contract award was 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.

Pace may contract only for its current and reasonably expected public transportation needs and may not add quantities or options to third party contracts solely to permit assignment to another party at a later date. These limits on assignments, however, do not preclude joint procurements that are entered into simultaneously by two or more parties to obtain advantages unavailable for smaller procurements.

Pace's later needs might decrease due to changed circumstances or honest mistakes. In those situations, Pace may assign its unneeded contract authority to another entity that would like to acquire the property or services.

As with other types of procurements, Purchasing staff shall conduct a cost or price analysis for contracts utilizing an assignability clause and determine whether the price is fair and reasonable. Additionally, all required FTA and State of Illinois clauses shall be incorporated by issuing an addendum to the master purchasing contract that contains the assignment language.

**IV. ADDITIONAL REQUIREMENTS FOR SPECIFIC CONTRACT TYPES**

**A. Requirements for Revenue Contracts**

Pace will utilize competitive selection procedures and principles in the award of revenue generating contracts. The extent of and type of competition required is within the discretionary judgment of Pace.

**B. Requirements for Rolling Stock**

Pace shall not enter into any contract for rolling stock or replacement parts with a period of performance exceeding five (5) years inclusive of options in accordance with FTA Circular 4220.1F or most recent version. Additionally, all rolling stock shall be procured by sealed bid (Invitation for Bids process) unless it is determined by 2/3 of the then Pace Board of Directors that a negotiated procurement (a Request for Proposal process) offers advantages in terms of the cost or financing of the equipment, its delivery, or other allowable advantage, as required by *Pace's Ordinance SBD 92-102, Regulations Governing Public Bidding*.

**C. Buy America Requirements**

Buy America Requirements apply to all contracts that exceed \$100,000. Therefore, Pace shall comply with Section 165 of the Surface Transportation Assistance Act of 1982, 49 U.S.C. 1601, Section 337



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of the Surface Transportation and Uniform Relocation Assistance Act of 1987, and 49 CFR Parts 660 and 661, which impose Buy America Provisions on the procurement of foreign products and materials. Pace shall ensure that Federal Buy America requirements are observed.

**D. Construction and Public Works Contract Requirements**

There are various specific requirements set forth in FTA Circular 4220.1 F for Construction procurements.

Contracts for the construction, reconstruction or improvement of any facility when the expenditure exceeds the small purchase procedures threshold may be awarded using either sealed bids or competitive negotiations as authorized by Pace policy. Construction contracts shall not be awarded using non-competitive procedures except in special circumstances where the requirements set out in FTA Circular 4220.1F are met.

Where applicable, Requesting Departments shall ensure that references in specifications conform to widely recognized standards for specifications promulgated by governments, industries, and technical societies.

When "brand name or equal" descriptions are necessary, specifications shall clearly identify and describe the particular physical, functional, or other characteristics of the brand name items that are considered essential to satisfying the requirement.

An Independent Cost Estimate (ICE) of construction costs shall be prepared for each proposed contract and for each proposed contract modification or change order. The estimate shall be prepared by the Requesting Department or by a contract consultant under the direction of the Requesting Department.

Additionally, contracts for construction and related contracts shall be awarded in accordance with the labor provisions of this Subsection and applicable labor provisions of FTA Circular 4220.1F as amended. Further, all public works contracts, regardless of dollar value, must adhere to the Illinois Prevailing Wage Act.

**1. Federal Construction Labor Standards**

All construction contracts greater than \$100,000 and, in very limited circumstances, non-construction projects greater than \$100,000 that employ laborers or mechanics on public work shall include a provision for compliance with sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5). This Act and DOL regulations cover 1) overtime requirements, 2) violations; liability for unpaid wages; liquidated damages, 3) withholding for unpaid wages and liquidated damages and 4) incorporation of these requirements in Subcontracts.

All Pace construction contracts in excess of \$2,000 shall include a provision requiring the contractor to comply with the Davis-Bacon Act (40 U.S.C. 276a to a-7) as supplemented by Department of Labor regulations (29 CFR Part 5). Under this Act, contractors shall be required to



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pay wages to laborers and mechanics at a rate no less than the minimum wages specified in a wage determination issued by the Secretary of Labor. In addition, contractors shall be required to pay wages not less often than once a week. Further information on Davis-Bacon regulations can be found at [www.dol.gov/dol/compliance](http://www.dol.gov/dol/compliance).

Additionally, all Pace construction contracts in excess of \$2,000 for construction or repair shall include a provision requiring the contractor to comply with the Copeland Anti-Kickback Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3). This Act provides that each contractor or subcontractor shall be prohibited from inducing by any means any persons employed in the performance of the work under the contract or subcontract to give up any part of the compensation to which he is otherwise entitled. Weekly certified payrolls shall be submitted by the Contractor and the requesting department/project manager shall maintain this in their files for public inspection by the Department of Labor at any time.

2. Illinois Prevailing Wage Act

In accordance with the State of Illinois' Prevailing Wage Act, all public works contracts, regardless of dollar amount, must adhere to state prevailing wage determinations. This Act applies to the wages of laborers, mechanics and other workers employed in any public works, as stated in the Illinois Prevailing Wage Act (820 ILCS 130), by any public body and to anyone under contract for public works. This includes any maintenance, repair, assembly, or disassembly work performed on equipment whether owned, leased, or rented. Public works is defined as all fixed construction work performed by or on behalf of any public body, paid in whole or in part with public funds.

Only such laborers, workers and mechanics as are directly employed by contractors or subcontractors in actual construction work on the site of the building or construction job, and laborers, workers and mechanics engaged in the transportation of materials and equipment to or from the site, but not including the transportation by the sellers and suppliers or the manufacturer or processing of materials or equipment, in the execution of any contract or contracts for public works with any public body shall be deemed to be employed upon public works. The wage for a tradesman performing maintenance is equivalent to that of a tradesman engaged in construction or demolition.

State prevailing wage determinations may be accessed at:  
<http://www.state.il.us/agency/idol/rates/rates.HTM>

3. Bonding

The Common Grant Rules require bonds for all construction contracts exceeding the federal simplified acquisition threshold (\$100,000) unless FTA determines that other arrangements adequately protect the Federal interest. Therefore, as required by the FTA, Pace shall require the following:

- i. Bid Guarantee - Pace will require each bidder to provide a bid guarantee equivalent to five (5) percent of its bid price. The "bid guarantee" must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid to ensure that the



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- bidder will honor its bid upon acceptance.
- ii. Performance Bond - Pace will require third party contractors to obtain a performance bond for 100 percent of the contract price. A "performance bond" is obtained to ensure completion of the obligations under the third party contract.
  - iii. Payment Bond - Pace will require the third party contractor to obtain a standard payment bond for 100 percent of the contract price. A "payment bond" is obtained to ensure that the contractor will pay all subcontractors supplying labor and material for the third party contract as required by law. FTA, however, has determined that payment bonds in the following amounts are adequate to protect FTA's interest and will accept a local bonding policy that meets the following minimums:
    - Less Than \$1 Million: Fifty percent of the contract price if the contract price is not more than \$1 million
    - More Than \$1 Million but Less Than \$5 Million: Forty percent of the contract price if the contract price is more than \$1 million but not more than \$5 million
    - More Than \$5 Million: Two and one half million dollars if the contract price is more than \$5 million
  - iv. Reduced Bonding - For any project not funded by capital grants, Pace will accept a local bonding policy that conforms to the minimums described in this subparagraph. Pace reserves the right to approve bonding amounts that do not conform to these minimums if the local bonding policy adequately protects Pace's interest.
  - v. Excessive Bonding - Compliance with State and local bonding policies that are greater than FTA's bonding requirements do not require FTA approval. FTA recognizes that in some situations bond requirements can be useful if Pace has a material risk of loss because of a failure of the prospective contractor. This is particularly so if the risk results from the likelihood of the contractor's bankruptcy or financial failure at the time of partially completed work. Nevertheless, if Pace's "excessive bonding" requirements would violate the Common Grant Rules as restrictive of competition, FTA will not provide Federal assistance for procurements encumbered by those requirements.

More detailed information and policies pertaining to Construction field changes will be found in *PC-02-D, Field Changes*.

**E. Architectural and Engineering (A/E) Service Contract Requirements**

Federal laws and regulations impose the following requirements on A&E and related service procurements:

**1. Qualifications-Based Procurement Procedures Required**

For projects related to or leading to construction, an FTA recipient must use the qualifications-based procurement procedures of 40 U.S.C. Chapter 11 (Brooks Act procedures) when contracting for A&E services and other services described in 49 U.S.C. Section 5325(b), which include program management, construction management, feasibility studies, preliminary engineering, design, architectural, engineering, surveying, mapping, or related services.

As noted in the FTA's Best Practices Procurement Manual, the Independent Cost Estimate (ICE) is



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critical in the award of an A/E contract, as price is not a deciding factor in the award decision. Therefore, the ICE is critical in conducting a thorough cost and price analysis to determine whether pricing is fair and reasonable.

2. Qualifications-Based Procurement Procedures Prohibited

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

A project involving construction does not always require that qualifications-based procurement procedures be used. Whether or not qualifications-based procurement procedures may be used depends on the actual services to be performed in connection with the construction project.

3. Relation to Construction

The nature of the services to be performed and its relationship to construction, not the nature of the prospective contractor, determines whether qualifications-based procurement procedures may be used.

As set forth in Section 9.e of the FTA's Best Practices Procurement Manual, Pace shall use qualifications-based competitive proposal procedures (i.e., Brooks Act procedures) when contracting for A&E services as defined in 40 U.S.C. § 1102 and 49 U.S.C. § 5325(b). Services subject to this requirement are program management, construction management, feasibility studies, preliminary engineering, design, architectural, engineering, surveying, mapping, and related services.

i. Design-Build – One Step Process

Pace may undertake its design-build procurement in a single step. Pace must procure design-build services through means of qualifications-based competitive proposal procedures based on the Brooks Act as set forth in Section 9.e of the FTA's Best Practices Procurement Manual **when the preponderance of the work to be performed is considered to be for architectural and engineering (A&E) related services.**

Qualifications-based competitive proposal procedures should not be used to procure design-build services when the preponderance of the work to be performed is not of an A&E nature as defined in Section 9.e of the FTA's Best Practices Procurement Manual.

ii. Design-Build – Two Step Process

Another procurement method Pace may use for large design-build projects is a two-step selection process as authorized for Federal Government use by 41 U.S.C. Section 253m.

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This method consists of:

- **Review of Technical Qualifications and Approach**  
The first step is a review of the prospective contractors' technical qualifications and technical approach to the project. Pace may then narrow the competitive range to those prospective contractors with satisfactory qualifications that demonstrate a technically satisfactory approach.
- **Review of Complete Proposals**  
The second step consists of soliciting and reviewing complete proposals, including price, submitted by prospective contractors first determined to be qualified.  
By using this two-step method, it will not be necessary for Pace to undertake extensive proposal reviews, nor will prospective offerors need to engage in expensive proposal drafting. This two-step selection procedure is separate and distinct from prequalification and is but one procurement method available to Pace.

iii. **Design-Bid-Build**

The design-bid-build procurement method requires separate contracts for design services and for construction.

For design services, Pace must use qualifications-based procurement procedures, in compliance with applicable Federal, State and local law and regulations.

Because Pace may not use qualifications-based procurement procedures for the actual construction, alteration or repair of real property, Pace generally must use competitive procedures for the construction. These may include sealed bidding or competitive negotiation procurement methods, as appropriate.

F. **Typical Contract Types**

Typical Contract types that Pace utilizes, but are not limited to, are outlined below:

1. **Firm Fixed Price**

A firm fixed price contract includes a price (either unit price or total price) that remains fixed irrespective of the contractor's cost experience in performing the contract. A firm fixed price contract may include an economic price adjustment provision, incentives, or both.

2. **Cost Reimbursement**

A cost-reimbursement contract provides for payment of the contractor's allowable incurred costs, to the extent prescribed in the contract. Allowable costs may include incentives if Pace believes they can prove helpful. Cost-reimbursement contracts are suitable for use 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.

3. **Indefinite Delivery Type Contracts**

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There are three different types of Indefinite Delivery contracts:

i. Definite-quantity contracts

A *definite-quantity contract* is one which provides for delivery of a definite quantity of specific supplies or services during a time period which is fixed, with deliveries or performance to be scheduled at designated locations at the time each order is placed under the contract. This type of contract is appropriate when Pace knows in advance how many total items it will need during the contract period but is uncertain as to the exact time or the exact amount of its needed deliveries to any given location. The supplies or services called for by this type of contract must be regularly available from the supplier or available after a short lead time.

ii. Requirements Contracts

A *requirements contract* is one in which Pace commits to place all of its requirements for a particular item or service with a particular contractor during a specified contract period, with deliveries or performance to be scheduled at the time each order is placed under the contract. This type of contract is used when quantities and/or the times of needed deliveries are uncertain.

When this type of contract is used, Pace should state a realistic estimated total quantity in the solicitation and in the resulting contract. This estimate is not a guarantee by Pace that it will buy the estimated quantity, but is a good faith estimate of what the requirements are likely to be. The estimate should be based on records of previous requirements as well as the most current information available.

The contract should protect the contractor by stating a maximum limit of the contractor's obligation to deliver. This maximum limit may be expressed for the entire contract, as well as for each individual order and for any particular period of time within the contract period of performance. Minimum order amounts may also be expressed for each order placed and for the contract as a whole. Minimum order amounts, however, are not required for this type of contract. It should be noted that the minimum and maximum quantities in a *requirements contract* are for the contractor's protection and do not necessarily limit Pace's procurement authority to order more units.

iii. Indefinite Quantity (IQ) Contracts (Commodities)/Task Order Contracts (Services)

This is a type of contract that provides for an indefinite quantity of supplies or services during a fixed period of time. Indefinite Delivery Indefinite Quantity (IDIQ) contracts are most often used for service contracts and Architectural-Engineering (A-E) services. Awards are usually for base years as well as option years.

For IDIQ contracts, Pace would place delivery orders (for supplies) or task orders (for services) against a basic contract for individual requirements. Minimum and maximum quantity limits should be specified in the basic contract as either number of units (for supplies) or as dollar values (for services). Pace will use an IDIQ contract when it cannot predetermine, above a specified minimum, the precise quantities of supplies or services that Pace will require during



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the contract period.

For federally funded procurements, to ensure that the contract is binding, a minimum number of units must be stated in the contract, and it must be more than a nominal quantity. Additionally, for federally funded contracts, there must also be a stated maximum of units that may be ordered. Indefinite-quantity contracts should never be "open ended," where no maximum quantity is stated.

For detailed procedures, including FTA guidance and restrictions pertaining to the use of Indefinite Delivery contracts for federally funded contracts, please refer to the *FTA's Best Practices Procurement Manual* and *Purchasing Department Roles and Responsibilities – Operating Manual*.

#### G. Prohibited or Restricted Contract Types

The following contract types are prohibited or restricted:

1. **Cost Plus Percentage of Cost and Cost Plus a Percentage of Construction Cost Prohibited**  
Pace shall not procure goods or services utilizing a "Cost Plus Percentage of Cost" or "Cost Plus a Percentage of Construction Cost" method. This method is strictly prohibited. This method and the prohibition against it is fully described in FTA Circular 4220.1F.
2. **Time and Material Contracts Restricted**  
The FTA only **permits** the use of time and material contracts only:
  - i. After determining that no other contract type is suitable; and
  - ii. If the contract specifies a ceiling price that the contractor may not exceed except at its own risk.

Therefore, Pace will only award time and material type contracts if both of the above conditions exist.

#### V. CHANGE ORDERS

- A. A Change Order modifies the terms and conditions of an existing purchase order contract (i.e. standard purchase order or blanket purchase agreement). A Change Order must be issued to the Contractor in writing and signed by the Department Manager of Purchasing or the Executive Director in accordance with FI-02.
- B. Consistent with FTA Circular 4220.1F, Cardinal Change Orders are strictly prohibited. Cardinal Changes are defined as those changes or modifications that are not within the scope of the original contract. For further details on allowable and prohibited change orders, see *PC-12, Change Order Process*.

The Purchasing Department is responsible for reviewing the requested change(s) for compliance with



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Federal Transit Administration (FTA) Procurement Rules and internal Pace policies and if appropriate, modifying the previously approved purchase order contract in accordance with the change(s) requested.

Purchasing is prohibited from authorizing any Change Order with a financial impact above the original contract amount or that extends the time of completion by 30 days or more, unless the request is accompanied by a written explanation indicating that the circumstances requiring the change in performance:

1. were not reasonably foreseeable at the time the contract was signed
2. were not within the contemplation of the contract as signed
3. are in the best interest of Pace as authorized by law
4. the price change is fair and reasonable

The Purchasing Department is responsible for negotiating the Change Order with the Contractor.

In limited situations when timing of work is critical in a construction or construction related project, the Department Manager, Purchasing may delegate partial field change authority to the Department Manager, Capital Financing and Infrastructure or the Section Manager, Field Construction, Capital Financing and Infrastructure or other responsible Pace staff who will act as the Purchasing Manager's Technical Representative (PMTR). See *PC-02-D, Field Changes* for detailed procedures pertaining to Construction field changes.

**VI. VENDOR PERFORMANCE AND CONTRACT ADMINISTRATION**

Purchasing buyers are required to monitor and maintain on record, information regarding the performance of vendors. Day to day contract administration is the requesting or using department's responsibility. Therefore, it is key that the requesting or using department's project manager or contract administrator manage and document vendor performance issues and alert Purchasing staff immediately if there are issues with vendor performance or contract compliance. Purchasing staff shall contact the Legal Department immediately if there are serious contractual issues that require Legal counsel.

The requesting or using departments are responsible for monitoring compliance with contract terms and conditions, tracking quality exceptions, and in a timely manner, communicating to the assigned buyer in Purchasing any compliance and performance issues. The assigned buyer may request this information in writing.

Executive Director

Date

Federally Required and Other Model Clauses Applicability Matrix - Formal Procurements (Sole Source Procurements, Joint Procurements, and Competitive and Qualifications Based Procurements)\*

Source: FTA Best Practice Procurement Manual, Appendix A

No.	FTA Clause	Dollar Threshold	Included in Templates?	
			Formal	All Templates
1	Fly America Requirements	>\$3,000.00	Y	Y
2	Buy America Requirements	> \$100,000.00	Y	Y
3	Charter Bus and School Bus Requirements	>\$3,000.00	Y	Y
4	Cargo Preference Requirements	>\$3,000.00	Y	Y
5	Seismic Safety Requirements	>\$3,000.00	Y	Y
6	Energy Conservation Requirements	>\$3,000.00	Y	Y
7	Clean Water Requirements	> \$100,000.00	Y	Y
8	Bus Testing**	>\$3,000.00		
9	Pre Award and Post Delivery Audit Requirements	>\$3,000.00		
10	Lobbying	> \$100,000.00	Y	Y
11	Access to Records and Reports	>\$3,000.00	Y	Y
12	Federal Changes	>\$3,000.00	Y	Y
13	Bonding Requirements	> \$100,000.00		
14	Clean Air	> \$100,000.00	Y	Y
15	Recycled Products	>\$10,000.00 (annual)		
16	Davis Bacon and Copeland Anti Kickback Acts	> \$2,000.00	Y	Y
17	Contact Work Hours and Safety Standards Act	> \$100,000.00	Y	Y
18	(Blank)	N/A	N/A	N/A
19	No Government Obligation to Third Parties	>\$3,000.00	Y	Y
20	Program Fraud and False or Fraudulent Statements and Related Acts	>\$3,000.00	Y	Y
21	Termination***	> \$10,000.00***	Y	Y
22	Government-wide Debarment and Suspension***	>\$25,000***	Y	Y
23	Privacy Act	>\$3,000.00	Y	Y
24	Civil Rights Requirements	>\$3,000.00	Y	Y
25	Breaches and Dispute Resolution	> \$100,000.00	Y	Y
26	Patent and Rights in Data	>\$3,000.00	Y	Y
27	Transit Employee Protective Agreements	>\$3,000.00	Y	Y
28	Disadvantaged Business Enterprises (DBE)	>\$3,000.00	Y	Y
29	(Blank)	N/A	N/A	N/A
30	Incorporation of FTA Terms	> \$3,000.00	Y	Y
31	Drug and Alcohol Testing	> \$3,000.00	Y	Y

\*State of IL also requires State FOIA and IL Prevailing Wage Act language

\*\*Bus testing clauses and requirements are needed for all rolling stock contracts; the buyer and the end user incorporate these requirements in specific exhibits for these types of contracts.

\*\*\*Pace policy or State of Illinois regulations on these clauses are more stringent than the FTA and are included in all contracts regardless of value.

## I. PURPOSE

The FTA Master Agreement requires grantees to provide and maintain competent and adequate engineering supervision at the construction site to ensure that the complete work conforms to the approved plans and specifications. It acknowledges that “...it is not feasible to have a contracting officer at each construction site. It is also inherent in the nature of construction projects that emergencies will occur which require immediate direction to the contractor to do changed work. For these reasons it has become generally accepted practice by most organizations doing construction contracting that some type of delegation of authority from the contracting officer to the resident engineer to direct field changes is essential. Delegation of authority to issue and/or negotiate field changes are the prerogative of the grantee.”

In order to delegate authority several procedures should be observed:

- A. Procurement policies and procedures clearly establish organizational responsibility and provide a general procedural framework for the process of contract modifications to construction contracts.
- B. Define the personnel who are authorized to issue change orders and limits of dollar authority.
- C. Ensure the person authorized to issue change orders meet certain education, training and experience requirements.
- D. Delegations should be limited to those situations where time is critical; where there is insufficient time to process the change through the contracting officers.

This procedure fulfills the requirements of the FTA Master Agreement and Pace has in place practices to document actions taken in the field.

## II. DEFINITION OF FIELD CHANGES

- A. A field change is any change to a contract resulting from an unexpected site condition, an error or omission in the construction documents, or an emergency situation having a dollar impact or a change to the scope, specification or construction documents and contract.
- B. All field changes shall be administered by the Section Manager, Field Construction (SMFC) of Pace’s Capital Financing and Infrastructure (CFI) Department. Upon discovery of a possible field change, the SMFC immediately assesses the situation. If it is an emergency, the SMFC completes form CFI-B6 “*Notice to Proceed (NTP) Directive for Construction Contract Work*”. This form indicates four distinct situations:
  - 1. The Contractor has not yet evaluated the impact on the contract price or period of performance but will submit pricing within 10 working days of Pace’s NTP directive.

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Field Changes

2. The Contractor's change order proposal is under review by Pace.
3. The SMFC has determined that no change order proposal is necessary and that he will recommend to Purchasing that this field change is processed as a no cost, no period of performance change order.
4. The clarification results in no change to the contract.

**Note: This form also states that the NTP directive does not constitute an evaluation or acceptance of proposed price or time extension and that final determination of price, time extension and compliance with contract change order procedures is subject to the approval of the Pace's Purchasing Manager prior to issuing of a formal change order, per the Construction Contract.**

- C. Multiple NTP directives for field changes should not be utilized in an attempt to direct any individual field change that will exceed \$25,000.
- D. The SMFC shall have a \$25,000 limit for individual field changes which qualify under the emergency. Any individual field change over the \$25,000 limit shall only be issued by the SMFC with the verbal approval of Pace's Purchasing Manager at the time of the occurrence.

### III. DELEGATION OF FIELD CHANGE AUTHORITY

This field change authority shall be delegated from the Department Manager, Purchasing to the SMFC and only for construction or related field changes that do not exceed \$25,000. This delegation of authority will include issuing the NTP directive to the contractor and negotiating a fair and reasonable price with the contractor.

### IV. DELEGATION OF SIGNATURE AUTHORITY

- A. The signature of the SMFC or CFI Department Manager is required on all NTP directives for construction contract work.
- B. The SMFC or CFI Department Manager may only delegate his/her signature to other CFI staff for the following reasons:
  - Vacation
  - Illness or sick leave
  - Prior written delegation authorized by a Delegation of Financial Approval Authority Form
  - Out of town for business, seminar, or similar function

Department PURCHASING	Subject <b>Field Changes</b>
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- C. The Contractor's change order proposal must be signed by the President, Vice President or authorized officer of the contractor's corporation.

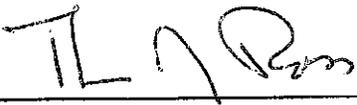
**IV. DOCUMENTATION REQUIREMENTS FOR CHANGE ORDER EXECUTION**

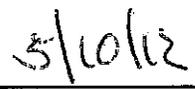
The following documents must be attached to the Change Order Requisition submitted in Oracle:

- A. One copy of the executed Notice to Proceed (NTP) Directive for Construction Contract Work, form CFI-B6, copy attached, signed by the SMFC.
- B. One copy of the Request for Proposal (RFP) for Construction Work – form CFI-A3, copy attached, where applicable, to fully describe the entire issue and scope of the change including all support documentation.
- C. The SMFC shall prepare an independent cost estimate (ICE) for the field change **(prior to receiving the proposal from the contractor)**. This ICE must, at a minimum, be dated and must include the basis of the estimate.
- D. Documentation of cost analysis shall show fair and reasonable price determination, in accordance with federal costing principles. This shall be submitted to the Department Manager, Purchasing or her designee within the Purchasing Department with the formal change order request.

Attachments:

1. CFI-B6 Notice To Proceed (NTP) Directive For Construction Contract Work
2. CFI-A3 Request For Proposal (RFP) For Construction Contract

  
 \_\_\_\_\_  
**Executive Director**

  
 \_\_\_\_\_  
**Date**



PC-02-D

Department PURCHASING	Attachment I
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PACE SUBURBAN BUS  
 550 W. Algonquin Road  
 Arlington Heights, IL 60005  
 Fax (847) 228-2320

**CAPITAL FINANCING AND INFRASTRUCTURE  
 NOTICE TO PROCEED (NTP) DIRECTIVE FOR  
 CONSTRUCTION CONTRACT WORK**

Date: \_\_\_\_\_ Pages incl. this sheet: \_\_\_\_\_  
 To (Contractor): \_\_\_\_\_ Attention: \_\_\_\_\_  
 From: \_\_\_\_\_ Direct Phone No.: \_\_\_\_\_  
 Project Name: \_\_\_\_\_ Pace Contract No.: \_\_\_\_\_

Please consider this as a Notice to Proceed with the Scope of Work defined in:

- Request for Proposal: \_\_\_\_\_
- Change Order Proposal: \_\_\_\_\_
- Scope of Work (or clarification) as follows: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Based on the date of this Notice to Proceed, we understand:

- You have not yet evaluated the impact on the contract price or period of performance and will submit a written change order proposal, within 10 calendar days of this directive.
- Your change order proposal is under review by Pace. Please resubmit to include the following: \_\_\_\_\_  
 \_\_\_\_\_
- No change order proposal is necessary at this time for this contract change. Pace Capital Financing and Infrastructure will recommend to Purchasing that this be processed as a no cost, no period of performance change order.
- This clarification results in no change to the contract.

The work defined in this Notice to Proceed is subject to all contract requirements. Unless noted above, this directive does not authorize overtime labor. This directive does not constitute an evaluation or acceptance of proposed price or time extension. Per contract Exhibit E, Section 18, final determination of price, time extension, and compliance with contract change order procedures is subject to approval of Pace's Purchasing Department prior to issuance of a change order.

\_\_\_\_\_  
 Pace Authorized Signature

cc: \_\_\_\_\_  
 (CFI Dept. Mgr., SMFC, PDM, FI, EAC, CA/File#4)  
 cc: \_\_\_\_\_  
 (A/E)

Creation Date – January, 2006  
 Rev. 1 – May, 2011

CFI-B6 NOTICE TO PROCEED (NTP) DIRECTIVE FOR CONSTRUCTION CONTRACT WORK  
 Revised April, 2012

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PC-02-D

Department  
PURCHASING

Attachment 2



PACE SUBURBAN BUS  
550 W. Algonquin Road  
Arlington Heights, IL 60005  
Fax (847) 228-2320

**CAPITAL FINANCING AND INFRASTRUCTURE  
REQUEST FOR PROPOSAL (RFP) FOR CONSTRUCTION  
CONTRACT WORK**

Date:	_____	Proposal Request No.:	RFP-_____
To (Contractor):	_____	Attention:	_____
From:	_____	Direct Phone No.:	_____
Project Name:	_____	Pace Contract No.:	_____

The Owner contemplates making certain changes, additions, or deletions to the work to be performed under the subject Contract. Unless otherwise indicated in the description of the change, accompanying drawings and specifications, all work shall conform to the Contract Documents. Please submit, within 10 calendar days from the date herein, a formal written change order proposal with a detailed cost breakdown including labor hours, hourly rates, material quantities, unit costs, equipment costs, mark-ups and bond premiums, etc., per contract Exhibit E, for both added and deleted work. This is not a Notice to Proceed Directive.

**DESCRIPTION:**

- Attached Drawings Issued: \_\_\_\_\_
- Attached Specifications Issued: \_\_\_\_\_
- Additional Shop Drawing Submittals Required: \_\_\_\_\_

cc: \_\_\_\_\_  
(CFI Dept. Mgr., SMFC, PDM, FI, EAC, CA/File#4)

cc: \_\_\_\_\_  
(A/E)

CFI-A3 REQUEST FOR PROPOSAL (RFP) FOR CONSTRUCTION CONTRACT WORK  
Revised April, 2012

Creation Date – December, 2007  
Rev. 1 – May, 2011

<b>Department</b> <b>PURCHASING</b>	<b>Subject</b> <b>REQUISITIONS &amp; REQUESTING DEPARTMENT</b> <b>RESPONSIBILITIES</b>
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## I. PURPOSE

- A. To establish requisitioning policies and outline the responsibilities of the Requesting Department, which are in accordance with Pace Ordinance SBD 12-86, Regulations Governing Public Bidding as amended.
- B. To ensure that all requisitioning activities are consistent with the requirements of Pace Ordinance SBD 12-86 as amended, Pace's Financial Approval Authorization Procedures outlined in FI-02, and Pace's Ethics Ordinance SBD 04-61.
- C. To ensure that all requisitioning activities funded with federal monies and/or grants from the federal government, State of Illinois, or Regional Transportation Authority (RTA) shall be handled in accordance with Federal Transit Administration (FTA) Circular 4220.1F or most recent version.
- D. To ensure that all non-federally funded requisitioning activities will also be processed in accordance with FTA Circular 4220.1F or most recent version.

For procurements not funded in accordance with item C above and in the event that legitimate business reasons or market conditions necessitate the waiving of any requirements established by FTA Circular 4220.1F, those reasons and the specific requirements proposed for waiver must be identified and documented by the requisitioner or other responsible party. Such waivers may be granted on an exceptions basis for a specific procurement subject to the approval and acceptance by the Department Manager, Purchasing or his/her designee. Under no circumstances shall categorical exclusions to compliance with the FTA Circular be allowed.

## II. GENERAL

- A. Approval Authority and General Requirements  
Requestors are required to obtain the appropriate levels of approval on Electronic Purchase Requisitions as shown in Financial Approval Authorization FI-02 before Requisitions can be processed by the Purchasing Department. All Procurements handled by Purchasing and Materials Management staff shall be in accordance with Pace's Ordinance SBD 12-86, Regulations Governing Public Bidding as amended and Federal Transit Administration (FTA) Circular 4220.1F or most recent version if applicable.<sup>1</sup>

After a Purchase Requisition or Change Order Requisition is submitted, the Requesting Department shall not communicate with or have any further discussions

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<sup>1</sup> These procedures do not apply to purchases made following purchasing card or check request procedures, including costs associated with employee benefits and compensation (refer to FI-06). Additionally, these procedures do not apply to purchases made by Materials Management/Division Buyers for non-grant funded items or services. Note: Materials Management/Division Buyers have a purchasing limit of \$10,000.

<b>Department PURCHASING</b>	<b>Subject REQUISITIONS &amp; REQUESTING DEPARTMENT RESPONSIBILITIES</b>
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with potential bidders/proposers regarding the procurement or current contractors regarding a change order or contract modification, unless this communication is authorized and coordinated by the Purchasing Department or Materials Management buyers, supervisor, or Department Manager.

Requisitions, including change order requisitions, will be rejected and returned to the end user through Oracle if they are not complete and ready for processing by the Purchasing Department. A complete requisition will include:

- a scope of work or specifications/requirements
- an Independent Cost Estimate (ICE) – if above the \$3,000 Micro Purchase limit a sole source or other justifications as applicable any additional regulatory or other requirements that are specific to the product/industry or service if applicable a signed DBE goal certification form for all non-sole source Grant Funded Procurements exceeding \$10,000 and all non-sole source Operating Funded Procurements exceeding \$25,000

Absence of these items will prevent Purchasing from processing the procurement in a timely manner.

**B. Board Approval Thresholds**

For any Purchase Requisition for a sole source contract estimated to be in excess of \$100,000.00, the Requesting Department must provide a completed budget statement 10 business days prior to the applicable board mailing date. Board approval must be obtained prior to award of any contract that falls within this procurement type and dollar threshold.

For any Purchase Requisition for a contract estimated to be in excess of \$250,000 and that will utilize a negotiated procurement method (or RFP process), the Requesting Department must provide a completed budget statement 10 business days prior to the applicable board mailing date. Board approval must be obtained prior to award of any contract that falls within this procurement type and dollar threshold.

For any Purchase Requisition for a contract in excess of \$500,000 and that will utilize an low bid method of procurement (or IFB process), the Requesting Department must provide a completed budget statement 10 business days prior to the applicable board mailing date. Board approval must be obtained prior to award of any contract that falls within this procurement type and dollar threshold.

These board approval thresholds are subject to any amendments made to Pace Ordinance SBD 12-86 and Pace's Financial Approval Authorization Procedures outlined in FI-02.

For detailed operating procedures for Pace's internal approval process related to board approval and changes in the board approval threshold ("red folder" and "green folder" process), see *Purchasing Department Roles and Responsibilities – Operating Manual*.

<b>Department</b> <b>PURCHASING</b>	<b>Subject</b> <b>REQUISITIONS &amp; REQUESTING DEPARTMENT</b> <b>RESPONSIBILITIES</b>
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C. Change Orders and Board Thresholds

For any Change Order Requisition which will cause the original contract amount to exceed \$100,000 for sole sources, \$250,000 for negotiated procurement contracts, or \$500,000 for low bid contract, and which have not previously been authorized by the Board, the Requesting Department must provide a budget statement 10 business days prior to the applicable board mailing date. Board approval must be obtained prior to execution of any change orders that fall within the procurement types and dollar thresholds outlined above.

These board approval thresholds are subject to any amendments made to Pace Ordinance SBD 12-86 and Pace's Financial Approval Authorization Procedures outlined in FI-02.

For detailed operating procedures for internal Pace approvals required related to board approval and changes in the board approval threshold ("red folder and "green folder" process), see *Purchasing Department Roles and Responsibilities – Operating Manual*.

D. Change Orders and DBE Goals

For any Change Order to a contract with a DBE Goal, which requires an increase in monies or a change in deliverables/scope of work, the Requesting Department shall notify the DBE office via e-mail or written memorandum of the change. A copy of this e-mail or written memorandum shall be attached to the requisition.

Once the Purchasing Department has executed the final contract modification or change order, including negotiating final price if applicable, Purchasing shall submit a copy of the executed change order to the DBE Office. The DBE Liaison Officer will adjust the DBE Goal accordingly and will return the required information to the Purchasing and Requesting Departments.

### III. TECHNICAL SPECIFICATIONS/SCOPE OF WORK

Technical specifications and scopes of work are to provide a common basis for bidding. Specifications and the scopes of work should set out the essential characteristics of the items or services to be procured. The specifications or scope of work should clearly define the minimum needs of Pace. Whenever possible, the expected quality of services to be provided or the performance characteristics of the item should be specified.

Whenever a brand name is specified, allow for an "or equal" product to be offered and evaluated. If the specifications contain a reference to a "brand name or equal" product, the salient characteristics of this brand name product and the minimum requirements must be outlined. For OEM parts, Pace shall provide salient characteristics to include language similar to the following:

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- *Original Equipment Manufacturer (OEM) part #123 or approved equal that complies with the original equipment manufacturer's requirements or specifications and will not compromise any OEM warranties*
- or
- *Original Equipment Manufacturer part #123 or approved equal that is appropriate for use with and fits properly in [describe the bus, engine, or other component the part must be compatible with] and will not compromise any OEM warranties*

The use of brand name restrictions must list salient characteristics and allow alternate bids to be offered during the current procurement process. The Requesting Department must fully justify if only one brand name product or products can meet the operational needs of the Agency and accordingly, a memo fully justifying this restriction must be submitted to Purchasing for review. This memo must be reviewed and signed by the same Department Managers and/or Budget Authorities that review and sign sole source justifications before submission to the Purchasing Department. (See Section V for more information regarding brand name restrictions)

In order to ensure conformance to Pace's specifications or scope of work, Requesting Departments are responsible for reviewing technical information (if applicable) or technical proposals, which are submitted by bidders or proposers, and informing Purchasing of the results. (Refer to PC-04 for the Policy on Technical Specifications and PC-06 for the Policy on Scopes of Work and the Request for Proposal Process).

#### **IV. INDEPENDENT COST ESTIMATE (ICE)**

It is the responsibility of the Requesting Department to conduct an independent cost estimate (ICE) for each procurement action, including change orders, if the total contract value will exceed \$3,000. The ICE for goods and/or services that are being procured is to be attached to the requisition that is submitted through the Oracle iProcurement System. The ICE is the Requesting Department's estimate of the price of a proposed procurement; this ICE will be used by the Purchasing Department in performing a cost or price analysis to determine price reasonableness in accordance with FTA Circular 4220.1F as amended. The independent estimate must be prepared without input from vendors which may respond to the solicitation. The estimate should be prepared in the same format and level of detail as vendors are to use in submitting their pricing or bids, to serve as an effective tool in evaluating price and cost reasonableness. This ICE must be submitted before pricing information is obtained or submitted by the bidders or proposers.

The Requesting Department should maintain the supporting documentation used in preparing the estimate for reference as part of the evaluation process. Should an addendum to the IFB, RFP, LIQ, or RFQ materially affect the anticipated price, the ICE should be revised to address the changed requirement(s).

<b>Department</b> <b>PURCHASING</b>	<b>Subject</b> <b>REQUISITIONS &amp; REQUESTING DEPARTMENT</b> <b>RESPONSIBILITIES</b>
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The Purchasing Department shall hold the estimate as confidential and not disclose its contents to potential bidders or proposers prior to the receipt of bids or proposals. If an outside consultant or firm should need access to this ICE, they must sign a confidentiality agreement to ensure they do not disclose the information contained in this ICE with outside parties. For further guidance on Independent Cost Estimates, please refer to the *Purchasing Department Roles and Responsibilities – Operating Manual*.

## V. SOLE SOURCE AND RESTRICTIVE PROCUREMENTS

Normally, Pace must provide for full and open competition when soliciting bids or proposals. The FTA and Pace's Ordinance SBD 12-86, *Regulations Governing Public Bidding*, however, acknowledges that under certain circumstances, a recipient may conduct procurements without providing for full and open competition.

When an allowable sole source procurement is required, a sole source justification must be completed and signed by the Requesting Department's Budget Authority or Department Manager (or in a single bid situation, a single source/single bid analysis form will be completed by the Purchasing Department). This sole source justification must be in writing (on the prescribed sole source justification form) and will be fully evaluated by the Purchasing Department. It is the responsibility of the Purchasing Department to evaluate sole source justifications in accordance with the standards established by Pace Ordinance SBD 12-86, *Regulations Governing Public Bidding* as amended and FTA Circular 4220.1F or newest version.

For all grant funded sole source procurements, the Purchasing Department will conduct a cost analysis, i.e., verifying the proposed cost data, the projections of the data, and the evaluation of the specific elements of costs and profit, as required by FTA Circular 4220.1F or newest version. In accordance with the Circular, this requirement is waived for commercial products and services for which an adequate price analysis can be conducted

The cost analysis and documentation of the sole source justification shall be included in the Procurement file.

Allowable sole source or restrictive procurements include but are not limited to:

- A. single bids where we did not include restrictive requirements or specifications
- B. unique capabilities or availability of a specific vendor or brand name product(s)
- C. emergency procurement of goods or services
- D. time extensions (change orders)
- E. adding additional tasks to scope (change orders)

In limited situations, this requirement may be waived for contracts that are not grant funded. This waiver will only apply after good faith efforts have been made to obtain this cost breakdown detail from the vendor and these efforts have failed. This waiver will be strictly limited and is only allowable after thorough review and approval by the

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Department Manager, Purchasing.

The policy for allowable sole source procurements is detailed in *PC-16, Sole Source and Non-Competitive Procurements*.

**Brand Name Restrictions**

FTA considers using brand name restrictions, without listing salient characteristics and allowing alternate products, to be restrictive on competition - even when Pace solicits from multiple vendors or restricts competition to multiple brand name products but does not list salient characteristics and allow other alternate products to be offered.

Therefore, restricting by brand name(s) must be fully justified in a similar fashion to sole source procurements. This justification can be in the form of a memo outlining the reasons why a brand name product or products is/are the only viable option for the Agency. This memo must be fully reviewed and signed by the same Department Managers or Budget Authorities that sign sole source justifications and will be fully evaluated by the Purchasing Department. It is the sole right and responsibility of the Purchasing Department to reject or approve these justifications based on its review of FTA Circular 4220.1F or newest version and Pace Ordinance SBD 12-86, Regulations Governing Public Bidding.

**Single Bids**

Receipt by Pace of a single responsive bid or proposal will be processed in a similar fashion to sole source procurements. An award will be made only if it is determined competition was adequate and the procurement did not include restrictive requirements or specifications. Additionally, the Purchasing Department must complete a cost and price analysis as well as a single source/single bid analysis form.

**Prohibitions**

Less than full and open competition is not justified based on:

1. Failure to Plan  
Pace's lack of advance planning does not justify a noncompetitive procurement.
2. Limited Availability of Federal Assistance  
Concerns about the amount of Federal assistance or future grant funding available to support the procurement do not justify a noncompetitive procurement (for example, expiration of Federal assistance or a UWP grant previously available for award).

Further discussion of allowable sole source procurements and detailed policies related to sole source or noncompetitive procurements is contained in *PC-16, Sole Source and Non-Competitive Procurements* and FTA Circular 4220.1F.

**VI. DRAWINGS, SPECIAL REQUIREMENTS, OR POLICIES**

It is the responsibility of the Requesting Department to attach any supplemental requirements or **updated** documents/exhibits as required for their specific service or

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product.

These shall include, but not be limited to:

- A. special drawings or photos
- B. special auditing requirements
- C. special testing requirements
- D. non-Purchasing boilerplate documents or manuals
- E. specific policies that must be adhered to with the procurement of special services or products as required by the Federal Transit Administration or other federal and state regulatory bodies

For further details on specific tasks and Requesting Department functions, see *Requesting Department Roles and Responsibilities - Operating Manual*.

## VII. DBE GOAL CERTIFICATION FORM

For Grant funded procurements that are not sole source procurements and that exceed \$10,000 and Operating funded procurements that are not sole source procurements and that exceed \$25,000, the DBE goal shall be established by the DBE Liaison Officer and attached to the requisition prior to submission to the Purchasing Department. The DBE goal certification form shall be completed and signed by the DBE Liaison Officer (to approve and set the final goal) and the Requesting Department's Department Manager or the Requesting Department's Approval Authority (to acknowledge the final goal). For additional details on purchasing policies related to the DBE program, see *PC-13, DBE Related Procurement Procedures*.

## VIII. PROCESSING REQUISITIONS

Requesting Departments at headquarters and the operating divisions are required to ensure that sufficient time is allowed for processing of requisitions by the Purchasing Department.

If accelerated processing of requisitions is required, it should be clearly indicated on the requisition or supporting documentation. For urgent procurements, Purchasing will make all attempts to accelerate the processing based on priority, complexity of the procurement, and existing staffing and workload levels. Emergency requisitions must be forwarded to the Executive Director for manual authorization and must be reported to the Pace Board of Directors in accordance with Pace's Ordinance SBD 12-86 as amended.

Estimated processing times that are required by Purchasing at headquarters are shown in *Purchasing Department Roles and Responsibilities - Operating Manual*. Requesting Departments should plan accordingly.

Whenever Purchasing is required to significantly revise Purchase Order processing times

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because of re-bids, new specifications, etc., Purchasing will inform the Requesting Department of the new target completion date.

#### **IX. CONTRACT ADMINISTRATION/POST AWARD ACTIVITIES**

Pace shall ensure federal and state funds are expended in a responsible manner through its contract administration activities. Contract administration, those activities performed after a contract has been awarded, ensures that the contractor's performance meets all requirements set forth in the contract. The day to day contract administration and monitoring of the contractor's performance, in terms of technical and contractual issues, shall be the responsibility of the Project Manager/Requesting Department. Likewise, approval of invoices and payment are the responsibility of the Project Manager or Requesting Department. If there are issues with performance in terms of technical or contractual compliance, the Purchasing Department shall be notified as soon as practicable. The Purchasing Department will engage the Legal Department for assistance whenever it is required.

Contracts involving the expenditure of public funds are subject to review and audits by funding agencies. As contract administration is a primary function of the Requesting Department, a central file for post-award contract activities with all written documentation produced during the life of the contract shall be kept in the Requesting Department. The post-award file contents shall include, at a minimum, the executed contract and notice of award/notice to proceed if applicable; bond-related documentation; contract-required insurance documentation; post-award correspondence concerning the contract; documentation of submittals by the contractor and corresponding approvals by Pace; all documentation relating to changes to the contract, claims, disputes and final close-out of the contract.

Post award, verification of invoiced costs and contractor adherence to budgets and schedules shall be the responsibility of the Project Manager/Requesting Department. The review of invoiced costs includes determining that good/services invoiced conform to the scope and pricing outlined in the contract, verifying adherence to freight terms designated in the contract and confirming that sales tax has been exempted where applicable. The Project Manager/Requesting Department is responsible for addressing issues related to invoiced costs and for obtaining revised billing when necessary. Additionally, ensuring the contractor submits insurance certificates, bonding documentation, and all other contractually required documentation shall be the responsibility of the Project Manager/Requesting Department. Final contract closeout activities will be administered by the Project Manager/Requesting Department and other involved parties and shall include those items listed on the "Contract Closeout Checklist" prior to issuance of final payment to the contractor.

As detailed in PC-02-C, Time and Materials contracts are to be restricted and only to be used in very limited situations. If a Time and Materials contract is the only option, it is especially critical that the Requesting Department's designated Project Manager or



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Contract Administrator provide extensive oversight of the Contractor's performance and costs incurred for the contract.

The Purchasing Department's general role in Pace's contract administration activities is to coordinate all involved parties so that change order approvals, contract modifications, and exercise of options are handled in accordance with Pace procedures and in accordance with federal guidelines regarding documentation requirements. A price or cost analysis for change orders and a market analysis for options are also the Purchasing Department's responsibility.

However, the Project Manager/Requesting Department is responsible for submitting the Independent Cost Estimate and assisting in analyzing current market information in order for the Purchasing Department to conduct an adequate cost, price, or market analysis.

Executive Director

9/25/12

Date

Section  
PURCHASING

Subject  
ASSET DISPOSAL POLICY AND  
PROCEDURE

## I. PURPOSE

To establish a formal procedure for the proper disposition and sale of all Pace assets.

## II. ADMINISTRATIVE POLICY

Pace will adhere to Pace's Fixed Assets Policy, FI-05 and the FTA Circular 5010.1D (or most recent version) regulations that pertain to the proper disposal of assets. Before a sale is authorized, the asset must have reached the end of its useful life and no longer be needed as defined by FTA Circular 5010.1D (or most recent version), any applicable Pace, RTA or IDOT disposal practices and policies, and Pace's Fixed Asset Policy, FI-05.

The DOT's Common Grant Rules at 49 C.F.R. § 18.32(d) (5) and 49 C.F.R. § 19.34(f) (6) requires that all federally funded assets be sold for the highest return. Therefore, all assets that have a fair market value, scrap value, or other value will be disposed of through the appropriate Purchasing process.

**All Pace employees and their family members, as defined in Pace's Ethics Ordinance, are strictly prohibited from purchasing or obtaining Pace assets from any sale or disposition.**

### A. General Requirements

Appropriate approvals are required before disposing of any asset. Accordingly, an asset disposal form shall be completed for each asset that is ready for disposal and approved by the applicable responsible parties before any disposal process can begin or be committed to. Refer to Section III for responsibilities.

For assets not authorized for disposal directly by the Using Department, it is the responsibility of the Using Department to submit a requisition in the Oracle system. This requisition requires a detailed description of the item to be disposed of and documentation that the asset disposal forms have been approved. A copy of these approved asset disposal forms are then submitted to the Purchasing Department by the Finance Department.

Items with potential environmental issues shall be disposed of appropriately through the applicable process. The Using Department is responsible for informing the Finance Department if it believes there may be a potential environmental issue and noting it on the asset disposal form in accordance with FI-05, Fixed Assets policy. The Environmental Affairs Coordinator in the Capital Financing and Infrastructure Department is responsible for reviewing and approving all items with potential environmental issues before a disposal may take place. See below for specific responsibilities.

Section  
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ASSET DISPOSAL POLICY AND  
PROCEDURE**B. Specific Requirements for Vanpool Program and Non-Revenue Vehicle Disposals**

All Vanpool Program and Non-Revenue Vehicle Sales shall be handled by the Contractor providing Fleet Management Services (for Vanpool and Administration), who is selected through the competitive procurement process. The Administration Department shall oversee the performance of this Contractor in conjunction with the Purchasing Department. *For specific policies and procedures pertaining to the sale of Vanpool Program and Non-Revenue/Staff vehicles, see PC-10.*

**C. Specific Requirements for Rolling Stock Disposals**

All disposals of Rolling Stock, other than those vehicles sold in accordance with PC-10, shall be handled by the Purchasing Department.

Vehicle title transfer and other applicable processes shall be ensured for all disposals of Rolling Stock must ensure. This includes disposal of badly damaged vehicles determined to have no fair market value. Once the corresponding requisition, asset disposal forms, condition reports, and other applicable documents are submitted to Purchasing, Purchasing shall determine appropriate method of disposal in conjunction with the Capital Financing and Infrastructure and Finance Departments.

**III. RESPONSIBILITIES**

The following provides the department responsible for each task.

**A. The Using Department**

The Using Department (defined as Division or Department where responsibility over the asset is currently assigned) shall be responsible for:

- Ensuring the Asset Disposal form is complete and approved by all applicable parties and ensuring all other requirements are met in accordance with FI-05, Fixed Assets Policy, prior to submitting a formal requisition in Oracle for the disposition of the equipment;
- Completing and submitting a requisition in Oracle within 15 business days for processing by the Purchasing Department, once the Asset Disposal Form is approved and it has been determined assets shall be sold, scrapped, traded in, or disposed of by an outside vendor;
  - The requisition shall require approval from the Capital Financing and Infrastructure Department if the item was originally purchased with Capital funds. If purchased with Capital funds, ensure the requisition for disposal is marked as Capital "Yes."
  - The requisition will include:
    - A complete description of the item approved for disposal
    - An attached disposal approval memo providing evidence that all approvals were obtained on the asset disposal form (please note that

- Purchasing will not proceed with disposal process until it receives the signed, fully approved asset disposal forms)
- An Independent Cost Estimate based on fair market value and condition assessment of the vehicle or other asset
  - Notifying the Finance Department (Fixed Assets) of the assigned requisition number once it has been approved so that the Finance Department can release the approved asset disposal forms to the Purchasing Department;
  - Promptly forwarding any asset sale payment inadvertently submitted directly to the Using Department to the Finance Department.

#### **B. Capital Financing and Infrastructure Department**

The Capital Financing and Infrastructure Department shall be responsible for:

- Approving or denying Asset Disposal Forms for any capitally funded equipment/assets based on funding rules and regulations and sending said forms to the Finance Department (Fixed Assets) for further processing;
- Obtaining disposal concurrence from funding agencies, if required;
- Approving requisitions for the disposal of any capitally funded equipment/assets and addressing issues that may delay the approval process with the Using Department (and the Purchasing Department if required);
- Reviewing and approving the solicitation documents for the disposal of any grant or capitally funded equipment/assets;
- Reviewing and approving the solicitation documents of any disposals with possible environmental issues (Environmental Affairs Coordinator) and providing recommended disposal method if needed. This includes IT equipment items, items with rechargeable batteries, and items containing refrigerant (i.e., Freon);
- Coordinating proceeds from sale and remittance back to funding agencies for any sales (if applicable).

#### **C. Finance Department**

The Finance Department shall be responsible for:

- Forwarding the completed Asset Disposal form to Capital Financing and Infrastructure for approval (when applicable);
- Notifying the Using Department of the proposed disposal method to be utilized (final determination will be made by the Purchasing Department);
- Forwarding a copy of the approved Asset Disposal Form (when applicable) to the Purchasing Department;
- Verifying with the Purchasing Department that payment amounts received are correct and as agreed upon with the Purchaser(s) of the asset(s);
- Processing all payments and documentation associated with the sale of each asset;

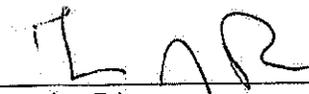
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- When applicable, notifying Capital Financing and Infrastructure of all proceeds from the sale in order to determine whether repayment to the funding agency is necessary;
- When deemed necessary, attending the sale or the pick-up of assets sold to ensure all are accounted for properly.

**D. Purchasing Department**

The Purchasing Department shall be responsible for:

- Processing the requisition for the disposition of all applicable Pace assets that are determined by the Using and Finance Departments to be eligible for sale, scrapping, or disposal by an outside vendor including the disposal of capially funded and operating funded assets;
- Ensuring all related asset disposition documentation is received and previously approved by all applicable parties;
- Ensuring and making the final determination of the most competitive and cost effective disposal process, according to all applicable Federal, State, and local regulations;
- Notifying the Finance Department (Fixed Assets) of assigned Buyer so that approved disposal forms may be forwarded for the Purchasing/Contract file;
- Forwarding a copy of the solicitation documents to the Capital Financing and Infrastructure Department for approval of the disposal of any grant or capially funded equipment/assets;
- Forwarding a copy of the solicitation documents for any disposals with potential environmental issues to the Environmental Affairs Coordinator for review and approval;
- Forwarding a copy of the final solicitation package for any disposal to the Finance Department;
- Ensuring and addressing all contract compliance issues with the prospective Purchasers of each asset;
- Forwarding any payments received by the Purchasing Department to the Finance Department, with all applicable bid amount information;
- Reviewing and signing any titles for the title transfer process (if there is a title of ownership for the property or equipment);
- Maintaining a contract file for the sale, scrapping, disposal or other disposition of these Pace assets.

  
Executive Director5-6-13  
Date

Department PURCHASING	Subject <b>SOLE SOURCE AND NONCOMPETITIVE PROCUREMENTS – Federally and Grant Funded Procurements</b>
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## I. PURPOSE

To establish procedures for justified sole source or noncompetitive procurements that are in accordance with Pace's Ordinance 92-102, Regulations Governing Public Bidding as amended, the RTA Act, Section 4.06 Public Bidding (70 ILCS 3615/4.06), and Federal Transit Administration (FTA) Circular 4220.1F or most recent version.

## II. DEFINITIONS

For purposes of this procedure, the following definitions apply:

- A. Requesting Department - the department, organizational unit or personnel who identifies the need for materials, supplies or services and initiates the procurement process by completing a Purchase Requisition.
- B. Purchase Requisition - procurement information that is entered in the Oracle system communicating the need for the acquisition of goods or services.
- C. Sole Source - characterized as the one and only source based on a vendor's unique capability or availability.
- D. Single Bid or Proposal - when Pace receives a single bid or proposal in response to a competitive solicitation over the Micro Purchase limit (those procurements that exceed \$3,000).
- E. Noncompetitive Procurement - when other than full and open competition exists and there is some level of restriction on competition.
- F. Brand Name References - referencing an item by brand name when it is impractical or uneconomical to make a clear and accurate description of the technical requirements.
- G. Salient Characteristics - those qualities of an item that are essential to ensure that the intended use of the item can be satisfactorily realized; the term is mainly used in connection with a brand-name-or-equal description.
- H. OEM - the Original Equipment Manufacturer who made the equipment.
- I. Brand Name Restriction - limiting competition by only allowing bids or proposals for specific brand name(s) or OEM item(s).
- J. FAR - the Federal Acquisition Regulations (FAR) are guidelines in which federal

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agencies have to adhere to in their procurement actions. Pace does not have to adhere to the FAR, except as noted in the FTA Circular; see Section IV for references to the FAR.

- K. Cardinal Change - a cardinal change has been issued to a contract if that change causes a major deviation from the original purpose of the work or the intended method of achievement, or causes a revision of contract work so extensive, significant, or cumulative that, in effect, the contractor is required to perform very different work from that described in the original contract. Such practices are sometimes informally referred to as “tag-ons” and are strictly prohibited. A change within the scope of the contract (sometimes referred to as an “in-scope” change) is not a “tag-on” or cardinal change.
  
- L. Emergency Requisition - requisitions for the immediate delivery of materials and supplies which are required to ensure the continuation of safe and economical transportation services, based on public exigency, and/or ensure the immediate safety of staff, passengers, or the public.
  
- M. Independent Cost Estimate (ICE) - is a neutral analysis, assessment, and quantification of all costs and risks associated with a procurement, using a method independent from the prospective offerors in advance of the offer, which shall be based on programmatic and technical specifications provided by the Requesting Department with primary responsibility for the program's development or operation.

### III. SCOPE

This procedure applies to purchases of all federally funded and grant funded materials, supplies and/or services that exceed \$3,000. See PC-16-B for procedures for handling sole source or noncompetitive purchases of operating or capital equipment, supplies, and/or services that do not utilize federal or grant funds, which exceed \$3,000.

For purposes of this policy, federal or grant funded means any contract for which the present and future funding source will include federal funds, State of Illinois grant funds or RTA grant funds whether for operating or capital purposes.

### IV. POLICY

Normally, Pace must provide for full and open competition when soliciting bids or proposals. The Common Grant Rule for governmental recipients and Pace’s Ordinance SBD 92-102 as amended, however, acknowledges that under certain circumstances, Pace may conduct procurements without providing for full and open competition.

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A. Allowable Sole Source Procurements or Noncompetitive Procurements

Procurement by noncompetitive proposals (sole source or other limits on competition) 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:

1. Sole Source Vendor

When Pace requires supplies or services available from only one responsible source, and no other supplies or services will satisfy its requirements based on this vendor's unique capability or availability, Pace may make a sole source award.

The items or services are available from one source if one of the conditions described below is present:

- a. Unique or Innovative Concept - The vendor demonstrates a unique or innovative concept or capability not available from another source. Unique or innovative concept means a new, novel, or changed concept, approach, or method that is the product of original thinking, the details of which are kept confidential or are patented or copyrighted, and is available to Pace only from one source and has not in the past been available to Pace from another source.
- b. Patents or Restricted Data Rights - Patent or data rights restrictions preclude competition.
- c. Substantial Duplication Costs - In the case of a follow-on contract for the continued development or production of highly specialized equipment and major components thereof, when it is likely that award to another contractor would result in substantial duplication of costs that are not expected to be recovered through competition.
- d. Unacceptable Delay - In the case of a follow-on contract for the continued development or production of a highly specialized equipment and major components thereof, when it is likely that award to another contractor would result in unacceptable delays in fulfilling Pace's needs.

2. Single Bid or Proposal

Upon receiving a single bid or proposal in response to a competitive solicitation, Pace should determine if competition was adequate. After Pace determines that the specifications are not unduly restrictive and changes cannot be made to encourage greater competition, Pace may determine the competition adequate and the procurement will qualify as a valid sole source. A cost analysis must be performed in lieu of or in addition to a price analysis when this situation occurs. If competition is deemed to be inadequate Pace will have to revise these specifications or other requirements and re-bid/re-solicit for these items or services. See Section VI below.

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3. Unusual and Compelling Urgency/Emergency Procurements  
FTA Circular 4220.1F or most recent version and Pace's Ordinance SBD 92-102, Regulations Governing Public Bidding as amended permits Pace to limit the number of sources from which it solicits bids or proposals when Pace has such an unusual and urgent need for the items or services that Pace would be seriously injured unless it were permitted to limit the solicitation. Pace may also limit the solicitation when the public exigency or emergency will not permit a delay resulting from competitive solicitation for the items or services.
4. Specific Noncompetitive Procurements Authorized by FTA  
The Common Grant Rules provides FTA authority to permit Pace to use noncompetitive proposals. Under this authority, FTA has made the following determinations:
  - a. Consortium, Joint Venture, Team, Partnership - With some exceptions, when FTA awards a grant agreement or enters into a cooperative agreement with a consortium, joint venture, team, or partnership, or provides FTA assistance for a research project in which FTA has approved the participation of a particular firm or combination of firms in the project work, the grant agreement or cooperative agreement constitutes approval of those arrangements. In such cases, FTA expects Pace to use competition, as feasible, to select other participants in the project.
  - b. FAR Standards -To ensure that Pace has flexibility equal to that of Federal contracting officers, FTA authorizes procurement by noncompetitive proposals in all of the circumstances authorized by FAR Part 6.3. In addition to circumstances discussed in the Common Grant Rules, the FAR authorizes less than full and open competitive procurements in one or more of the following circumstances:
    - i. Statutory Authorization or Requirement - To comply with Department of Transportation (DOT) appropriations laws that include specific statutory requirements, with the result that only a single contractor can perform certain project work.
    - ii. National Emergency - To maintain a facility, producer, manufacturer, or other supplier available to provide supplies or services in the event of a national emergency or to achieve industrial mobilization.
    - iii. Research - To establish or maintain an educational or other non-profit institution or a federally funded research and development center that has or will have an essential engineering, research, or development capability.
    - iv. Protests, Disputes, Claims, Litigation - To acquire the services of an expert or neutral person for any current or anticipated protest, dispute, claim, or litigation.
    - v. International Arrangements - When precluded by the terms of an international agreement or a treaty between the United States and a foreign government or international organization, or when prohibited by the

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- written directions of a foreign government reimbursing Pace for the cost of the acquisition of the supplies or services for that government.
- vi. National Security - When the disclosure of Pace’s needs would compromise the national security.
  - vii. Public Interest - When Pace determines that full and open competition in connection with a particular acquisition is not in the public interest.

Only when one of the above circumstances applies, shall sole source or noncompetitive procurement methods be used.

B. Associated Capital Maintenance Item Exception **Repealed**  
 SAFETEA-LU repealed the special procurement preference previously authorized for associated capital maintenance items or OEM parts. Thus, any sole source or restricted procurement of associated capital maintenance items or OEM parts must qualify for an exception under the same standards that would apply to other sole source or restrictive/noncompetitive acquisitions.

C. Prohibitions

1. Less than full and open competition is not justified based on:
  - a. Failure to Plan  
Pace’s lack of advance planning does not justify a noncompetitive procurement.
  - b. Limited Availability of Federal Assistance  
Concerns about the amount of Federal assistance or future grant funding available to support the procurement do not justify a noncompetitive procurement (for example, expiration of Federal assistance or UWP grants previously available for award).
  
2. Impermissible Actions  
 Per FTA 4220.1F or most recent version, Pace may not use Federal assistance to finance:
  - a. Improper Contract Expansion  
A contract has been improperly expanded when it includes a larger scope, greater quantities, or options beyond Pace’s reasonably anticipated needs. A contract has also been improperly expanded when excess capacity has been added primarily to permit assignment of those contract rights to another entity. The Common Grant Rules require grantees to have procurement procedures that preclude from acquiring property or services it does not need.
  - b. Cardinal Changes  
Cardinal changes as defined in Section II, Definitions above are impermissible.

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For additional guidance, please reference the FTA's *Best Practices Procurement Manual* or the FTA's website.

## V. OTHER SOLE SOURCE OR NONCOMPETITIVE AWARDS

The following additional procurement actions constitute sole source awards:

### A. Time Extensions

Contract time extensions or change orders will be considered in light of whether they are permissible changes or impermissible cardinal changes.

Once Pace awards a contract, a permissible extension of the contract term length will require a sole source justification along with an ICE; additionally, this will require a cost analysis in lieu of or in addition to a price analysis as with all other sole source/noncompetitive actions.

### B. Failure to Evaluate Options Before Awarding the Underlying Contract

If a contract has one or more options and those options were not evaluated as part of the original contract award, exercising those options after contract award will result in a sole source award. This will require a sole source justification along with an ICE and a cost in lieu of or in addition to a price analysis as with all other sole source or noncompetitive actions.

### C. Negotiating a Lower or Higher Option Price

Exercising an option after Pace has negotiated a lower or higher price will also result in a sole source award unless that price can be reasonably determined from the terms of the original contract, or that price results from Federal actions that can be reliably measured, such as changes in Federal prevailing labor rates, for example. If the price cannot be reasonably determined from the terms of the original contract or that price cannot be shown was a result of Federal actions that can be reliably measured, then this will require a sole source justification along with an ICE and a cost analysis in lieu of or in addition to a price analysis as with all other sole source/noncompetitive actions.

### D. Brand Name References and Brand Name Restrictions

The FTA considers specifying only a "brand name" or only an "OEM" product, instead of allowing "an equal" product to be offered, to be restrictive and a situation that limits competition. Therefore, the FTA requires that all solicitations incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features that unduly restrict competition.

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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 product. The brand-name-or-equal description should set forth those salient physical, functional, or other characteristics of the referenced product that an equal product must have in order to meet Pace's needs. The specific features of the named brand which must be met by bidders or proposers shall be clearly stated.

If the requesting department believes that a specific brand name **must** be used in a specification **and** that it cannot accept any alternative product; i.e., it cannot allow a vendor to propose "an equal" product during the solicitation, Purchasing or Materials Management staff must process this in a similar fashion as they would a sole source procurement action. See Section VI below.

## **VI. SOLE SOURCE AND NONCOMPETITIVE PROCUREMENT PROCEDURES**

When less than full and open competition is available to Pace, Pace shall:

- A. Conduct a cost analysis in lieu of or in addition to a price analysis, i.e., verifying the proposed cost data, the projections of the data, and the evaluation of the specific elements of costs and profit, as required by FTA Circular 4220.1F or newest version. Pace, however, need not obtain a cost analysis if it can justify price reasonableness of the proposed contract based on a catalog or market price of a commercial product sold in substantial quantities to the general public or based on prices set by law or regulation. This cost and/or price analysis shall be included in the procurement file.
  
- B. If Pace decides to solicit an offer from only one source, the Requesting Department must justify its decision adequately in light of the standards of this Procedure. Whenever the above circumstances apply, a complete and thorough Sole Source Justification Form shall be completed by the Requisitioning Department and submitted to the Purchasing Department with the Purchase Requisition through the Oracle iProcurement system. This sole source justification must have all applicable approvals and will be fully evaluated by the Purchasing Department. It is the sole right and responsibility of the Purchasing Department to reject or approve sole source justifications based on its review of FTA Circular 4220.1F or newest version and Pace Ordinance SBD 92-102, Regulations Governing Public Bidding. The sole source justification must be included in the procurement file.
  
- C. If Pace receives only one responsive and responsible bid or proposal during the procurement process, the Purchasing Department will conduct a Single Source/Single Bid Analysis (and complete and include in the procurement file a *Single*

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*Source/Single Bid Analysis* form) and determine if competition was adequate. This should include a review of the specifications for undue restrictiveness and might include a survey of potential sources that chose not to submit a bid or proposal.

1. Adequate Competition - If Pace determines that competition was adequate, we will proceed with award. Competition will be deemed to be adequate when the reasons for few responses were caused by conditions beyond Pace's control. Many unrelated factors beyond Pace's control might cause potential sources not to submit a bid or proposal. If the competition can be determined adequate, Pace's competition requirements will be fulfilled, and the procurement will qualify as a valid sole source.
  2. Inadequate Competition – Pace will deem competition to be inadequate when it is caused by conditions within Pace's control. For example, if the specifications or other requirements used by Pace were unduly restrictive, competition will be deemed inadequate. In this situation, Pace would have to revise these specifications or other requirements and re-bid/re-solicit for these items or services.
- D. In the case of Brand Name Restricted procurements, solicit offers from as many potential sources as is practicable under the circumstances. Additionally, a fully approved brand name restriction justification memo must be completed and included in the procurement file.

This brand name justification memo must indicate why the brand name item or items have particular features that are absolutely necessary for Pace operations and why no other brands can fulfill Pace's requirements. All brand name justification memos shall provide evidence as extensive as sole source justifications. Additionally, this brand name justification memo must be approved by the same Pace staff that approve sole source justifications and will be subject to review and approval by the Purchasing Department. The approved justification memo shall be included in the procurement file.

If multiple bids are received, a price analysis determining fair and reasonable price shall be conducted and included in the procurement file (in the case of a single bid/proposal being received or one source being solicited, a cost analysis in lieu of a or in addition to a price analysis shall be conducted as stated previously).

See *FTA Best Practices Procurement Manual, Sections 2.4.2.2 Restraints on Competition and 2.4.2.2.1 Brand Names* for further discussion on brand name procurements.

- E. Special Requirements for Emergency Requisitions - Standard competitive bidding

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and normal internal approval processes are not required for the processing of emergency requisitions. Therefore, a fully justified emergency procurement that is authorized by the Executive Director will not require the “Red” or “Green” Folder or Board approval processes.

If Requesting Departments have a justified emergency as defined by Section IV, Subsection A, Item 3 above, Requesting Departments must obtain the following signed approvals:

<u>Headquarters</u>	
Purchase Amount	Approval Required
In excess of \$10,000	Executive Director (prior to processing by the Purchasing Department)
\$10,000 and under	Appropriate Deputy Executive Director, Officer, or Department Manager

<u>Divisions</u>	
Purchase Amount	Approval Required
In excess of \$10,000	Deputy Executive Director, Revenue Services <u>and</u> Executive Director (prior to processing by the Purchasing Department)
\$1,000 to \$10,000	Deputy Executive Director, Revenue Services or appropriate Division Manager*
Less than \$1,000	Division Manager with written notification to the Deputy Executive Director, Operations

\* Approval required is determined by the item that is being purchased.

Emergency requisitions will be given priority by Purchasing and the Requesting Department must notify Purchasing that an Emergency has been declared.

The Requesting Department shall secure the signatures as outlined above on the hard copy of the Purchase Requisition as well as submit a fully approved sole source

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justification. The sole source justification attached to the Purchase Requisition must indicate that the items/services being procured are being processed as an emergency.

For those procurements exceeding \$10,000, a follow up report must be submitted to Pace's Board of Directors within 5 working days after contract award.

See *Pace Suburban Bus Service Purchasing Manual* for applicable forms (i.e., *Single Source/Single Bid Analysis* form, *Sole Source Justification* form, etc.).

MLZ  
TLAR  
Executive Director

4/17/12  
Date

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## I. PURPOSE

To establish procedures for justified sole source or noncompetitive procurements that are in accordance with Pace's Ordinance 92-102, Regulations Governing Public Bidding as amended and the RTA Act, Section 4.06 Public Bidding (70 ILCS 3615/4.06).

## II. DEFINITIONS

For purposes of this procedure, the following definitions apply:

- A. Requesting Department - the department, organizational unit, or personnel who identifies the need for materials, supplies or services and initiates the procurement process by completing a Purchase Requisition.
- B. Sole Source - characterized as the one and only source based on a vendor's unique capability or availability.
- C. Single Bid or Proposal - when Pace receives a single bid or proposal in response to a competitive solicitation over the Micro Purchase limit (those procurements that exceed \$3,000).
- D. Brand Name References - referencing an item by brand name when it is impractical or uneconomical to make a clear and accurate description of the technical requirements.
- E. Salient Characteristics - those qualities of an item that are essential to ensure that the intended use of the item can be satisfactorily realized; the term is mainly used in connection with a brand-name-or-equal description.
- F. OEM – the Original Equipment Manufacturer who made the equipment.
- G. Brand Name Restriction – limiting competition by only allowing bids or proposals for specific brand name(s) or OEM item(s).
- H. Emergency Requisition - requisitions for the immediate delivery of materials and supplies which are required to ensure the continuation of safe and economical transportation services, based on public exigency, and/or ensures the immediate safety of staff, passengers, or the public.
- I. Purchase Requisition - procurement information that is entered in the Oracle system communicating the need for acquisition of goods or services.

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- J. Not Funded with Federal or Grant Funds - any contract for which the present and future funding source will not include federal funds, State of Illinois grant funds or RTA grant funds whether for operating or capital purposes.
- K. Independent Cost Estimate - is a neutral analysis, assessment, and quantification of all costs and risks associated with a procurement, using a method independent from the prospective offerors in advance of the offer, which shall be based on programmatic and technical specifications provided by the Requesting Department with primary responsibility for the program's development or operation.
- L. Noncompetitive Procurement - when other than full and open competition exists and there is some level of restriction on competition.

### III. SCOPE

This procedure applies to purchases of all Pace operating or capital equipment, supplies, or services that exceed \$3,000, and are **not** funded with federal funds or grant funds. See PC-16-A for procedures for handling sole source or noncompetitive procurements utilizing federal funds and/or grant funds.

### IV. POLICY

Normally, Pace must provide for full and open competition when soliciting bids or proposals. Pace's Ordinance SBD 92-102 as amended and the RTA Act, Section 4.06 Public Bidding (70 ILCS 3615/4.06), however, acknowledges that under certain circumstances, Pace may conduct procurements without providing for full and open competition.

These exceptions outlined in the RTA Act and Pace's Procurement Ordinance include:

- A. Acquisition of repair parts, accessories, equipment or services previously furnished or contracted for through the original equipment manufacturer (OEM) or OEM's reseller.
- B. Immediate delivery of supplies, material or equipment or performance of service when it is determined by the Executive Director that an emergency requires immediate delivery or supply thereof.
- C. Goods or services economically procurable from only one source.
- D. Contracts for the maintenance or servicing of equipment which are made with the

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manufacturers (OEMs) or authorized service agent of that equipment where the maintenance or servicing can best be performed by the manufacturer or authorized service agent or such a contract would be otherwise advantageous to Pace, except that the exceptions in this clause shall not apply to contracts for plumbing, heating, piping, refrigeration and automatic temperature control systems, ventilating and distribution systems for conditioned air, and electrical wiring.

- E. Goods or services procured from another governmental agency.
- F. Acquisition of utility services.
- G. Purchase of service agreements or other contracts, purchases or sales entered into by Pace with any public transportation agency or unit of local government.
- H. Upon receiving a single bid or proposal in response to a solicitation, Pace should determine if competition was adequate. If the competition can be determined adequate, competition requirements will be fulfilled, and the procurement will qualify as a valid sole source. If competition is deemed to be inadequate Pace will have to revise these specifications or other requirements and re-bid/re-solicit for these items or services.
- I. Pace may limit the number of sources from which it solicits bids or proposals when Pace has such an unusual and urgent need for the items or services that Pace would be seriously injured unless it were permitted to limit the solicitation. Pace may also limit the solicitation when the public exigency or emergency will not permit a delay resulting from competitive solicitation for the items or services.
- J. Once Pace awards a contract, a permissible extension of the contract term length will require a sole source justification along with an ICE and a cost in lieu of or in addition to a price analysis as with all other sole source/noncompetitive actions.
- K. Brand name restrictions if determined as being advantageous to Pace with regard to integration with existing equipment, systems or facilities shall be allowed only if supported by adequate documentation indicating a sound business rationale for the brand name restriction. Brand name supplies, equipment and services commonly available from more than one source will be competitively bid. In such case the procurement will be considered a noncompetitive procurement governed by this procedure.

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## V. SOLE SOURCE AND NONCOMPETITIVE PROCUREMENT PROCEDURES

When less than full and open competition is available to Pace, Pace shall:

- A. Conduct a cost and price analysis, i.e., verifying the proposed cost data, the projections of the data, and the evaluation of the specific elements of costs and profit. Pace, however, need not obtain a cost analysis if it can justify price reasonableness of the proposed contract based on a catalog or market price of a commercial product sold in substantial quantities to the general public or based on prices set by law or regulation. This cost and/or price analysis shall be included in the procurement file.
- B. If Pace decides to solicit an offer from only one source, a complete and thorough Sole Source Justification Form shall be completed by the Requisitioning Department and submitted to the Purchasing Department with the Purchase Requisition through the Oracle iProcurement system. This sole source justification must have all applicable approvals and will be fully evaluated by the Purchasing Department. It is the sole right and responsibility of the Purchasing Department to reject or approve sole source justifications based on the requirements of Pace Ordinance SBD 92-102, Regulations Governing Public Bidding as amended and the RTA Act, Section 4.06 Public Bidding (70 ILCS 3615/4.06).
- C. If Pace receives only one responsive and responsible bid during the procurement process, the Purchasing Department will conduct a Single Source/Single Bid Analysis (and complete a *Single Source/Single Bid Analysis* form) and determine if competition was adequate. This should include a review of the specifications for undue restrictiveness and might include a survey of potential sources that chose not to submit a bid or proposal.
  1. Adequate Competition - If Pace determines that competition was adequate, we will proceed with award. Competition will be deemed to be adequate when the reasons for few responses were caused by conditions beyond Pace's control. Many unrelated factors beyond Pace's control might cause potential sources not to submit a bid or proposal. If the competition can be determined adequate, Pace's competition requirements will be fulfilled, and the procurement will qualify as a valid sole source.
  2. Inadequate Competition – Pace will deem competition to be inadequate when, it is caused by conditions within Pace's control. For example, if the specifications used by Pace were unduly restrictive, competition will be inadequate. In this situation, Pace would have to revise these specifications or other requirements and re-bid/re-solicit for these items or services.
- D. In the case of Brand Name Restricted procurements, solicit offers from as many potential sources as is practicable under the circumstances. Additionally, a fully approved brand name restriction justification memo must be completed and included in the procurement

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file. Conduct a price analysis in lieu of a cost analysis if multiple bids are received.

- E. Special Requirements for Emergency Requisitions - Standard competitive bidding and normal internal approval processes are not required for the processing of emergency requisitions. Therefore, a fully justified emergency procurement that is authorized by the Executive Director will not require the “Red” or “Green” Folder or Board approval processes.

If Requesting Departments have a justified emergency as defined by Section IV above, Requesting Departments must obtain the following signed approvals:

<u>Headquarters</u>	
Purchase Amount	Approval Required
In excess of \$10,000	Executive Director (prior to processing by the Purchasing Department)
\$10,000 and under	Appropriate Deputy Executive Director, Officer, or Department Manager

<u>Divisions</u>	
Purchase Amount	Approval Required
In excess of \$10,000	Deputy Executive Director, Revenue Services <u>and</u> Executive Director (prior to processing by the Purchasing Department)
\$1,000 to \$10,000	Deputy Executive Director, Revenue Services or appropriate Division Manager*
Less than \$1,000	Division Manager with written notification to the Deputy Executive Director, Operations

\* Approval required is determined by the item that is being purchased.



PC-16-B

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The Requesting Department shall secure the signatures as outlined above on the hard copy of the Purchase Requisition as well as submit a fully approved sole source justification. The sole source justification attached to the Purchase Requisition must indicate that the items/services being procured are being processed as an emergency.

For those procurements exceeding \$10,000, a follow up report must be submitted to Pace’s Board of Directors within 5 working days after contract award.

See *Pace Suburban Bus Service Purchasing Manual* for applicable forms (i.e., *Single Source/Single Bid Analysis* form, *Sole Source Justification* form, etc.).

*TLAR*

**Executive Director**

*4/17/12*

**Date**

*NC2*